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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:

BOARD OF VISITORS OF HOMEWOOD SANITARIUM, GUELPH

MONDAY, FEBRUARY 13, 1984



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Hennessy, M. (Fort William PC)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Lupusella, A. (Dovercourt NDP)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Sheppard, H. N. (Northumberland PC)

Clerk: White, G.

Staff:

Eichmanis, J., Researcher, Legislative Library
Kilpatrick, M., Researcher, Legislative Library

Witnesses:

From the Board of Visitors of Homewood Sanitarium, Guelph:
Goldrich, G., Member; Sheriff, County of Wellington
McNeely, Judge E. G., Chairman
Vincent, Dr. C. O., President, Homewood Sanitarium



LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Monday, February 13, 1984

The committee met at 2:10 p.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
BOARD OF VISITORS OF HOMEWOOD SANITARIUM, GUELPH

Mr. Chairman: Gentlemen, we have a quorum present. We have in front of us this afternoon the board of visitors of Homewood Sanitarium, Guelph. The three people with us are Judge Edward G. McNeely, Sheriff Gordon Goldrich and Dr. C. O. Vincent. I take it the crown attorney, Mr. Haw, is not here.

Judge McNeely: Mr. Chairman, he was in a rear-end collision last week and he was in hospital for a few days. He is still having some trouble.

Mr. Chairman: Do you have an opening statement you would like to make?

Judge McNeely: Well, not much of a statement, Mr. Chairman and members of the committee. I think the background paper you gave us sets out the background of the board of visitors and the legislation under which it operates. I think it also raises the few questions that might be said to be raised by our experience on the board.

I have been a member of the board for two years since my appointment as the judge in Guelph. Mr. Goldrich, our sheriff, has been a member for 15 years by virtue of being the sheriff. The other gentleman who is with us today, Dr. Vincent, is the executive director of Homewood. We asked him if he would be prepared to come along in case there are any questions that the committee has which would be more appropriately answered by him because he has a full knowledge of Homewood and its workings. He has been the executive director for 12 years. With that, we are at your disposal.

Mr. Chairman: Fine, thank you, Judge McNeely. Mr. Breaugh.

Mr. Breaugh: Dr. Vincent, we have a bit of a report here on the facility. I wonder if you could give the committee a little more of a rundown of the type of care that is provided, perhaps just a brief description.

Dr. Vincent: Homewood just came off its centennial year. It was founded in 1883. It is Canada's oldest and largest private psychiatric hospital. When it was founded, in the language of 1883, it was an asylum for the insane and inebriates. So it really was the first facility in all of Ontario that saw inebriates as part of its mandate.

Since that time, the next bit of legislation that changed its mandate was in the early 1900s when they added to insane and inebriates those with nervous conditions, which broadened it a little bit more, meaning that you did not have to be crazy to go there. You did not have to be psychotic, but you could have other emotional problems.

That really has been the mandate since that time. It has grown from a 50-bed hospital to a 312-bed hospital, which has an average of about 1,700 admissions per year.

The kind of patient we take in is really the kind that any psychiatric hospital takes in. The only exclusions would be by virtue of age. We do not have a program for those under 14 years of age. But anybody from 14 up who might require a psychiatric bed could be admitted to Homewood.

Mr. Breaugh: How do people get there?

Dr. Vincent: Basically, the vast majority are usually referred by their family physician or by their psychiatrist.

Mr. Breaugh: Is it fully covered under Ontario health insurance plan or partly or what?

Dr. Vincent: It is partly covered by OHIP. Prior to the days of Ontario Hospital Services Commission in 1959, it was strictly an arrangement between the individual and the hospital. Beginning in 1959, the arrangement was made between Homewood and the Ontario Hospital Services Commission that the OHSC would pay the equivalent of standard ward rate at Homewood, which is similar to what they pay in a public general hospital. They would accept the fact that all of our beds were, in fact, semi-private or private.

To put that in dollar terms for today--because we are rather proud of our rate and we think we have the lowest rate of any psychiatric bed in the province--our total per diem rate for an active semi-private is \$138.50. OHIP pays the standard ward equivalent of \$120 a day. The balance is left for the individual family or insurer.

Mr. Breaugh: Most of your patients are short-term patients?

Dr. Vincent: Yes. We get some feel of the turnover by the number of admissions in a year. With 312 beds, we have about 1,700 admission per year. So if you look at it in terms of admissions, about 90 per cent are short term. If you look at it in terms of the number of beds, about half and half. About half of our beds are long term, predominantly psychogeriatric beds, patients with advanced Alzheimer's.

Mr. Breaugh: One of the things which strikes you when you look over the research that we have is the terminology. For one thing, why do we need a board of visitors?

Dr. Vincent: I personally think having a board of visitors is a good idea. I agree that some of the terminology and terms could stand modification. Particularly, I do not think the board of visitors really has to inspect our outhouses any more and a few other items like that--some of our inhouses perhaps. It serves several different functions that are valuable.

It is of value to patients who feel that somehow maybe they are being mistreated and would like an outside source to look into it. It gives them that option and has been used that way by patients occasionally over the years. At a time when there is increasing concern about civil rights and so on, and a time when the Ministry of Health has appointed a patient's advocate in each of the provincial psychiatric hospitals, the nearest thing we have to a patient's advocate would be the board of visitors. Therefore, if it is appropriate in a provincial psychiatric hospital, it could be reasonable to say it is appropriate at Homewood also.

I think it is of some value to the patients and there is some value to Homewood. We appreciate having a local group come in to check us out so that if we are not doing well, they could tell us. If we are doing okay, it is good to have that kind of support. If some patient turns around and sues or whatever, says we are mistreating him, we would appreciate the background of the board of visitors over the years. Maybe it gives some protection also, some evidence at least that the Ministry of Health or the government is monitoring this private hospital, inspects it and checks it out.

For those kind of reasons, I would be pleased to see the board continue.

Mr. Breaugh: Maybe I could ask Judge McNeely the next logical question. It does seem strange to have a judge, sheriff and crown attorney sitting on this thing called a board of visitors. It seems an odd duty these days to be giving you. Can you see any rationale for that, not that you would not do a fine job, I am sure?

2:20 p.m.

Judge McNeely: It is quite an old act. I think that what happened with quite a number of functions that had to be done in different parts of the province years ago is that very often the government took the view that at least it knew of one person who is in every county, and that is the county judge and, in this case, I suppose, a crown attorney and the clerk of the county court.

In many instances, disparate kinds of duties were given to the local judge, such as election recounts and assessment appeals. We sat on boards of referees for teacher-board disputes. There was a tendency to take a judge because they knew there was one in every place and they knew he was more or less independent and, presumably, was able to do it.

That may be the background. Other than being independent and having no ties of a business nature or of an occupational nature, other than duties as judge, crown attorney or clerk, I suppose there is no particular reason why they were chosen.

If they were to set up the act today, it may well be they would not make the same selection this legislation makes. We are named in the act and we are doing it. There is always, in my mind anyway, a little bit of a marginal concern when judges get into anything other than their judging. It seems to me there is always a possibility of some perception that they really ought not to be doing other things. Initially, however, that is a decision for the Legislature.

I think that basically is how this selection was made. Probably at the time it was set up they were sure of having readily available people who would be able to do it.

Mr. Breaugh: Do you think it would make more sense to find just a number of citizens? I really find it a strange role for all the people named to boards to be playing. I wonder whether that is a useful exercise for them to be involved in now. Would it not make more sense to find four solid Ontario citizens who perhaps live in the area to fulfil the same role? Or is the role really needed? That was another question in my mind. For example, why would inspections not be done by ministry staff as opposed to three or four citizens?

Judge McNeely: I think probably any member of the committee is in as good a position as I am to answer that. The facts are there. From a purely personal point of view, I have some marginal reservations about judges doing anything but judging. I know traditionally the police commission was another thing they used to be on. There were much more serious questions in that area, I would think, than even in here.

However, I think it is a matter for the committee. Other than being independent in a sense, I do not think there are any particular qualities we would bring to this work that other people would not bring. I suppose if we got into a hearing there is the odd section in the act where we would be more knowledgeable.

However, this usually applies to sections that are so outdated they are never invoked nowadays. A judge's qualities might be of value in a hearing type situation if he had to weigh evidence. But certainly other people could serve just as well from the point of view of making an inspection and saying the patients seemed to be well looked after, the place seemed to be clean and neat, perhaps even looking at the certificates under which they were admitted and so on.

Mr. Breaugh: I wonder if either of the other two gentlemen would have any comments about why it is essential to retain this board in its current shape. I am at a bit of a loss to understand why that is necessary and why it could not be handled just as well by ministry staff for inspection purposes, or a local board of governors for other purposes or whatever. Do you have any comments on that?

Mr. Goldrich: I do not think I can add anything to what Judge McNeely has already said. There are obviously people in the city or the municipality who could probably function just as well as we do.

Mr. Breaugh: There are some obvious conflicts that might arise from time to time. Is it something that is really worth bothering with? Is it a bit of an onerous chore to try to get your board together--what is it?--four times a year to visit? It does not seem to me to be back-breaking in nature--

Judge McNeely: No, it is not.

Mr. Breaugh: --but you are busy people trying to get a schedule together.

Judge McNeely: I think the biggest problem we have is that, unfortunately, there has been a vacancy on our board for some time and the act requires that of the people who inspect it, one has to be a doctor. Since we only have one doctor on the board and he spends the major portion of the year in Florida, we have had difficulty getting the board together. For that reason we have not actually visited the sanitarium four times a year as the act contemplates. We visit it at least once a year.

In terms of the amount of our time it takes, it is not a major burden on us. We can do that quite easily if the Legislature feels we are the proper people to do it and if there are no other indications to the contrary. It is certainly quite manageable. If we had our full complement, there would never be a problem in making our visits and so on. It is not a burden to us in that sense.

Mr. Breaugh: Right now you are in violation of the act.

Judge McNeely: Yes.

Mr. Breaugh: You should not answer that.

Interjection: You need a good lawyer.

Judge McNeely: I suppose we could make our four visits a year by scheduling them at close intervals in the period when we have our members. We certainly try to follow the spirit of the act. Even though the act is quite outdated in many ways, I think the basic thrust of the board of visitors was to have some outside body as a kind of protection. We live in the community. If something was wrong there, I think we would hear about it fairly quickly. There is ample power under the act to jump into a situation and try to get to the bottom of it if something crops up.

That might be one difference between, say, someone from the Ministry of Health inspecting the institution and a local body, whether comprised of these people or of some other people such as the mayor or someone nominated in some other way. It seems to me with a place this size in a community the size of Guelph, if anything is wrong with a 300-bed psychiatric facility in a

community of 72,000, the people in that community are quickly going to hear about it either through friends or in some fashion, so there may be some marginal advantage to a local board, however composed. I suppose someone could as easily say, "If there is anything really serious, other people hear about it too."

2:30 p.m.

I must say we have not had that kind of feedback. I am not saying this to praise the institution at all, but the fact of the matter is we have had almost no complaints. The institution has been the subject of some newspaper articles. For instance, there was a series on the best 25 hospitals in Canada, or something like that.

The institution is accredited. It has been since accreditation started. It is subject to a lot of examination, other than by the board of visitors. While it is this board's function to wander around and see what the place is like and ask questions and so on, a lot of the overall control is already done by others.

Mr. Edighoffer: Could you expand on that a bit?

Dr. Vincent: Maybe I could comment on it. If you look back over the history of things, the board of visitors has been there from the beginning. In the early days, an inspector of asylums, appointed by the Ministry of Health or its forerunner, inspected all psychiatric hospitals in the province. That function overlapped a little with the board of visitors' function and came to an end in the late 1950s or 1960.

Since then, there are two things that perhaps make the biggest difference. One is the Canadian Council on Hospital Accreditation. When this became a possibility for psychiatric hospitals, Homewood was the first hospital in Ontario to become accredited. We got in under the wire ahead of the Clarke Institute of Psychiatry that made it a month after us. At regular intervals, the council checks out the quality of patient care. The maximum period of accreditation you can get is three years. The council visits at intervals of no greater than three years and, having access to everything, does a very detailed inspection. From the point of view of quality of care, the CCHA is very much in there.

The other thing is from the perspective of patients' rights. With the current legislation, this is another side of the function of review boards. It provides a patient with ready access to review boards, the same as in any other psychiatric hospital where a patient can be committed against his will. This function did not exist apart from the board of review until the recent Mental Health Act came into existence.

Any patient admitted on an involuntary basis or any involuntary certificate is renewed as by law of the right to the review board. This happens about 10 or 12 times a year.

There are other kinds of things. There is the Public Health Act. Public health inspectors come in periodically to do swabs and check our kitchens, dining rooms and bedrooms and these kinds of things. Also, the fire department comes in regularly. Any time you do any construction or make changes, you have to update the current regulations. These days, hospital people feel there are regulations coming at them from every corner.

Mr. Watson: How is the sanitarium governed?

Dr. Vincent: A board of directors is elected annually by the shareholders.

Mr. Watson: The reason I wanted to know is if a person there had a complaint, quite often one would go to the board responsible for the institution rather than to the board of visitors. Can you explain what the difference would be in that regard?

Dr. Vincent: The board has final responsibility for the quality of care and everything that goes on in the hospital. The ultimate authority is in the board of directors. They hire me on a day-to-day basis to do that for them. I guess if they thought I was not doing it on a day-to-day basis, they would fire me.

Patients have gone to the board of visitors in situations, not when they felt the quality of care in the hospital was inappropriate but when they felt they should not be there, that they did not have to be there and they were being held inappropriately and it was illegal. In this sense, there was a certain value in having a crown attorney respond who represented the legal system. He would come up and see them and discuss this.

If you were a patient in Homewood and felt you should not be held there and you went to the board of visitors who were elected by the shareholders, I suppose you might say they had a vested interest in keeping you in there, whereas I do not think they ever see the crown in that light.

Mr. Watson: Some time during the afternoon, I want to explore your board of directors, but that is not really something to do with this.

Dr. Vincent: I think the board of directors would have a vested interest in getting somebody out who should not be there, so they would not get sued. It is just how it could be perceived by the patient who is being held there against his will.

Mr. Epp: How many shareholders are there?

Dr. Vincent: There are 4,000 shares. I cannot give you an exact figure but I would say 100, 150, 200.

Mr. Epp: Does any particular group or individual have the majority of shares?

Dr. Vincent: I think the chairman of the board has more shares than anybody else, but nobody has--

Mr. Epp: Nobody has 51 per cent?

Dr. Vincent: No. Nobody even has 20 per cent. I believe the chairman is close to that range; but nobody has over 20 per cent.

Mr. Epp: These are not publicly traded shares? Is it just a private corporation?

Dr. Vincent: It is a limited company. The shares are advertised periodically in Toronto. You can get them through Pitfield MacKay Ross Ltd. when they become available. They are not listed on the Toronto Stock Exchange but they are available.

Mr. Watson: That was the area I wanted to get into, how many shareholders you had and have there been any recent sales of shares?

Dr. Vincent: Yes, there have been sales. There have been a few exchanged virtually every month of the year.

Mr. Watson: In what price range do those shares change hands?

Dr. Vincent: The most recent ones were running around \$1,500 a share.

Mr. Watson: And there are 400 shares?

Dr. Vincent: There are 4,000 shares.

Mr. Rotenberg: What is your annual dividend?

Dr. Vincent: Dividends are paid twice yearly. I believe it was in the vicinity of \$120 for the year.

Interjection: Twenty per cent.

Mr. Rotenberg: You must be one of the very few privately owned, for-profit hospitals in the province.

Dr. Vincent: Yes.

Mr. Rotenberg: Do you know of any others?

Dr. Vincent: Yes. The Institute of Psychotherapy in Kingston is one. The hernia hospital north of Toronto is a privately owned hospital, the Shouldice clinic. I am sure there are a few more. I think there is a list of 10 or 12 hospitals in the province, maybe more, that are privately owned.

Mr. Epp: Do you still have inebriates who come there to dry out or whatever you want to call it?

Dr. Vincent: Yes. We would not call it drying out. At least, we discourage them from coming in just to dry out as opposed to coming in for a course of treatment. If they just want to dry out, we encourage them to go to the detox centre in Waterloo.

Mr. Epp: How long would the average stay of these people be? You mentioned earlier you had about 1,700 admissions per year. What would the average stay be?

Dr. Vincent: The average stay of active treatment patients is about five weeks. The average stay for an alcoholic patient would be about four weeks. It is basically a three-phase program. Phase 1 is detoxification. Phase 2 is a three-week, very concentrated program where they are occupied within the program pretty well from the time they get up until they go to bed. Then the majority go home at the end of that three-week period.

Then we have a phase 3, which is an outpatient follow-up for a minimum of a year for those who are agreeable.

Mr. Epp: How do you evaluate your success rate?

Dr. Vincent: We hired Charles Pearce, who was formerly the executive director of the district health council in Kitchener-Waterloo--

Mr. Epp: I know Charles.

2:40 p.m.

Dr. Vincent: --after he resigned there and was a private consultant. Because we felt a need to have some evaluation of our alcoholic treatment program. We had him come over and do a twofold evaluation, one which was an outcome in terms of how the patients did subsequently, comparing those who took the phase 3 follow-up part and those who did not, and also doing a patient satisfaction study. He completed his study about a year and a half ago. It is the most recent major evaluation that we have.

Mr. Epp: Were you quite pleased with the success rate you were having?

Dr. Vincent: Yes.

Mr. Epp: As a result of it, did you take some major steps?

Dr. Vincent: We took some minor steps, because there were certain areas patients were asked to comment on, virtually every aspect of the program, and some they rated much higher than others. Overall, about 70 per cent of the patients who went through the program were drastically improved, if you compared the year following admission to the year before admission.

On the patient satisfaction scores he gave, Chuck said he was extremely impressed because he had not seen as high a level of

patient satisfaction in comparative studies as he found here. You can check that out with him.

Mr. Epp: What is the longest stay? Do you have people who stay several years?

Dr. Vincent: In the long-term care area, patients who come in with Alzheimer's disease, an organic brain syndrome that comes on in old age, might have an average length of stay of some three or four years. We have separate psychogeriatric units, quite a different situation from the active treatment units.

Mr. Epp: I presume you are a medical doctor, not an academic doctor.

Dr. Vincent: Yes.

Mr. Epp: You mentioned earlier there is no program for people under 14 years of age. Do you have many people under that age there? Do you have one per cent or two per cent?

Dr. Vincent: Whom we have admitted there under that age?

Mr. Epp: Yes.

Dr. Vincent: Virtually none. The only time we ever take anybody under 14 is if there is a sufficient emergency in Wellington and Dufferin counties with somebody and no other reasonable option. We take them in for short time and try to get them into the Children's Psychiatric Research Institute in London or Thistletown or some other facility that had a program for them. It is almost a holding protection operation, just for a few days.

Mr. Epp: Your patients are primarily referred from hospitals and physicians and so forth. What geographical area do you serve?

Dr. Vincent: We do not have a specific legislated catchment area.

Mr. Epp: Do they come from outside the province at all?

Dr. Vincent: Yes. Somewhere around five per cent are from outside the province. Way back when, it was probably a higher percentage. About 50 per cent of our patients come from Wellington and Dufferin counties and about 50 per cent from beyond Wellington and Dufferin.

Mr. Epp: You mentioned the daily rate is \$138.50. The Ontario health insurance plan pays \$120 and the family pays \$18.50. Do you have any difficulties? Are people turned down if they cannot afford to pay? You are a private institution. Do you have difficulty collecting the fees from families? How do you deal with that?

Dr. Vincent: I should explain the next step. It is oversimplified a little bit, and I will go on and expand a little bit. First, individuals arranged their own payment entirely until 1959. Then the paying of a standard ward rate came into existence with a differential that Homewood was responsible for collecting.

The next step in the development was in 1967 when the Ministry of Health established a community mental health clinic in Guelph for Wellington and Dufferin counties. At that point, the Ministry of Health was faced with the issue of whether it would provide additional psychiatric beds in Wellington-Dufferin county. If it added psychiatric beds to Guelph General, St. Joseph's would want to have them too, or if it added them to St. Joe's, Guelph General would want to have them too.

The compromise solution that was suggested to satisfy both Guelph General and St. Joe's was that a certain minimum number of beds at Homewood could be in some way designated as the psychiatric beds for the counties of Wellington and Dufferin. We went into that and initially worked out an agreement with the Ministry of Health promising to keep a minimum of at least 10 beds available for Wellington and Dufferin counties.

I should add, of the differential we get of \$18.50 a day, our working agreement with the Ministry of Health is that it is split 50:50 with the Ministry of Health. While most doctors do not fee split, we do. On the patients from Wellington and Dufferin counties who are referred in through the community mental health clinic, the differential is waived and the Ministry of Health pays us our usual half of the \$18.50--\$9.25 a day. Patients from Wellington and Dufferin counties who are not insured then do not have any differential to pay.

About half of our patients come from Wellington and Dufferin counties, and about half of them come in through the clinic and do not pay any differential. The other half virtually all have Blue Cross or some other insurance that pays the entire differential for a period of 60 days, and the vast majority of active treatment patients are in and out within 60 days.

Mr. Epp: Is everyone in a ward or do you have semi-care or basic?

Dr. Vincent: Nearly all of our beds are semi-private, two to a room. There are a few single rooms.

Mr. Epp: How many within your staff are professionals?

Dr. Vincent: The total staff of Homewood is about 450 full-time employees and 150 part-time employees. Of course, the largest single department is nursing. When you come to what the physicians think is the most important department, the psychiatrists, we have 14 full-time psychiatrists who are salaried and on staff full time and we also have three other physicians who are full-time salaried employees at Homewood.

We have departments of social work, psychology, occupational therapy, recreational therapy and physiotherapy plus all the support staff, the dietary staff, the housekeeping staff, physical plant and so on.

Mr. Epp: I have one further question for Judge McNeely, or maybe someone else will want to answer this. The reason I ask this is that we have had groups before us and then all of a sudden a week or two later we will read about an interesting case in the paper that happens to confront that institution. I have no reason to believe you have some interesting cases coming before the courts now, but is there any litigation going on or any reason that we are going to read something about what went on in the papers in the next six weeks or six months?

Mr. Goldrich: There is no litigation going on in Wellington county as far as I am aware, and I am local registrar of the court as well as sheriff. I think I would be aware if there were any lawsuits outstanding against Homewood in that jurisdiction. I cannot say the same thing about the balance of the province, of course; they can issue a writ in any other jurisdiction. But there is nothing going on in Wellington that I am aware of.

Mr. Rotenberg: With regard to your role as the visitors, we hear about patients who are in mental hospitals who want to get out. Under the new Mental Health Act, of course, they have a better chance of getting out, but there are some people who may not be aware of their rights.

You get into that area and I understand you are supposed to visit each individual patient. That is pretty difficult. How do you get the message across to the patients that you are there and that if anybody has a problem or a complaint or feels he is there improperly, he can come and see you without somebody else sitting in on the conversation?

Judge McNeely: As Dr. Vincent mentioned, I think there is some other legislative provision now for patient review. Certainly in the hospital on our inspections we notice on the bulletin boards throughout the hospital that there are notices as to what patients should do if they want to have a board of review to look into their cases.

As far as interviewing the patients is concerned, frankly, we do not interview the patients because it just would not be possible. But some time ago, before I became a member, I believe the board obtained an opinion that it was not required to interview patients, because the people who are admitted now at Homewood are all admitted under the provisions of the Mental Health Act.

Mr. Rotenberg: Were there none left over from before the new Mental Health Act?

2:50 p.m.

Judge McNeely: No, I do not think there were any left over. In other words, when the Private Sanitaria Act was enacted, it contained, if you read through the act, its own mechanism for people being admitted there. It also contained a mechanism whereby patients, once they are admitted, could be discharged or could be allowed out in the company of their friends for a week at a time and then brought back in.

Also in the act were powers given to the board of visitors and so on to deal with this. Those provisions are not invoked now because the Mental Health Act contains its own provisions which apply to this hospital and to the other psychiatric hospitals in Ontario. It is pursuant to those provisions that people are admitted now. To revert to the thrust of your original question, we do not take any steps to do that, other than posting those notices throughout the hospital advising them basically of the board of review mechanism.

I think when anyone thinks of a mental hospital--maybe it is a throwback to another age; I do not know--if there is one case that really ought to be looked into it is a case of someone being there who should not be. Certainly we are very conscious of that. However that situation has not come to our attention. As the doctor mentioned, he gets about 10 or 12 board of review applications a year.

Mr. Rotenberg: Taking all that into account, what do you do that no other public authority does? If the board of visitors disappeared, what functions are you doing that would not be handled by some other public body?

Judge McNeely: We do go up and make an inspection, but I think there are other bodies now that are entitled to make inspections if they wish to. I do not know whether they would or not if we did not go up there. I suppose the only thing really different about the board of visitors is that it is locally based--for what difference, if any, that makes.

Mr. Rotenberg: You did not quite seem to answer a question Mr. Breaugh asked. Let me put that a different way. I am talking about the composition of a board--with the judge, the sheriff, crown attorney and so on. If you were advising a Legislature committee that was either rewriting this act or writing it from the beginning without any history on it, would you advise that those named people would be on the board, or would you advise that membership of the board possibly be from a much wider range of people?

Judge McNeely: I think that is a matter for the Legislature. If you are asking me as an individual--

Mr. Rotenberg: I am asking you as an experienced member of the board whether, in effect, there is any real requirement. If you would not object, and without regard to the personality of the present incumbents, I am asking whether there is any reason a judge or a crown attorney or a sheriff should be on that board by virtue of their office.

Judge McNeely: My own view is that judges should not do anything but judge. For historical reasons and a variety of other reasons, the legislation in this province has got us into various--

Mr. Rotenberg: One of the functions of this committee is to make recommendations for a possible change in legislation. I gather from what you are saying you would not be unhappy if we recommended the judge be no longer a named person on this board of visitors?

Judge McNeely: After all, I am a judge and I am looking at it from that point of view. But I do not think judges should do anything but judge. I know they are into fewer and fewer other things, but I think the reason they got into so many of these is the reason I mentioned. When the province was less developed they were people who were readily available every place in the province and they had little duties put on them.

That situation has largely changed now and we are getting out of all these other activities. It is probably more important today that they do get out of these other things and pay strict attention to what they are supposed to be doing. Mr. Goldrich may have some view relating to his own position, but that is certainly my view.

Mr. Rotenberg: Having been on this board, you have your own personal view as to the sheriff or crown attorney being on this board, as to whether those named by virtue of office are now necessary in 1984 on a board of visitors. If we were going to rewrite the act, do you think we should recommend the named offices be deleted from the act with the province or whatever minister comes in naming whoever they want to form the committee?

Judge McNeely: If one were starting off fresh today, I suspect almost no one would make the particular selection they made. I could be wrong.

Mr. Rotenberg: Do you agree with that?

Mr. Goldrich: I agree with that.

Mr. Rotenberg: That is all the questions I have at the moment.

Mr. Lupusella: I think the police commission has already dealt with this issue and deleted the judges from sitting on the commission. It was the last piece of legislation introduced by the provincial government.

A lot of questions have been raised, but I have one. It relates to treatment given to psychiatric patients. Do you give electric shock treatment in this private institution? Have you had any complaints through the years of patients refusing to take this type of treatment and, if you have had any, how many?

Dr. Vincent: If the patient refuses, by and large we do not do it. We have not gone to the review board as was the recent

case in Hamilton to have the review board decide on the matter. We have had the review board decide on the issue of compulsory treatment for some other patients, but it always had to do with intramuscular injections, not electroconvulsive therapy.

My view of ECT is it is one of the most beneficial treatments going for severe depression. It gets a bad press. The thing that puzzles me most about the press on ECT is the implication is often there that psychiatrists are somehow trying to control society through people unfortunate enough to have ECT, control the masses as it were.

The reality in the United States has been that, since the civil rights concerns about ECT and enforced treatment and so on, the studies all show it is currently the masses who are deprived of ECT. The wealthier people who can afford to go to university hospitals and private psychiatric hospitals are the ones who have the benefit of ECT. The poor people are deprived of it because legislation has made it so difficult to get.

Mr. Lupusella: The other question is not in relation to treatment, but to the presence of a judge and a sheriff on a board. Do you not think that by having a judge and a sheriff on the board you are giving the community a false impression that a private institution is run properly? Do you get that feeling or do you think the public might get that feeling?

Judge McNeely: I think the truth of the matter is that probably the public is not even aware the board exists. I think this is a danger. Just in general terms, there is a danger in having judges and court officials. I can think of other groups too, maybe members of the Legislature and so on, because there is a danger it would be regarded as an assurance beyond what it is capable of being.

The mere fact a particular type of person is on the board is really no guarantee of anything. You have to take into account: "What is the nature of the things they do? Do they in fact do them? Are the real problems such that by doing the things they are capable of doing they are likely to find them out if they exist and so on?"

3 p.m.

I know the thrust of your question. It is something that in abstract terms bothers me, but as to this particular one, I dare say that if you took a poll in the city of Guelph you would find that 99.9 per cent of the people did not know the board of visitors existed or that Homewood had such an animal.

Mr. Rotenberg: The other 0.1 per cent would.

Mr. McNeely: Yes, I think you are right.

Mr. Sheppard: Just following up what Mr. Breaugh and Mr. Rotenberg said, I don't see any quarrel with the judge being chairman of the board or anything. The only thing I would like to

ask is, would you consider that maybe there should be a psychiatrist along with a doctor and expand the board to two or so more?

Mr. McNeely: Maybe I should let everyone answer this. My own view is that--there is a vacancy, as I have said, and there has been for a few years--I hope that if the board is continued, it will be filled.

I think it would be a great relief to me if one of the members of our board was a person who had, for instance, some background maybe in a large psychiatric institute or some expertise in this field. Then when he was among the board of visitors, it seems to me he would probably be in a better position than laymen to think of the kinds of areas that maybe we should be taking a look at.

I think it would be an advantage if one of the two doctors appointed was someone who had a particular expertise in this field. I do not know if the other gentlemen here have any views on that.

Mr. Goldrich: With respect, I am not sure I agree wholeheartedly with that because I would be afraid that, depending on the personality of the individual doctor or psychiatrist who might be involved, there could be a professional type of difficulty arise on the inspection of the documentation that at present we look at.

It could incur the responsibility of sitting through an examination or listening to a psychiatrist as a member of the board of visitors give an opinion which might be adverse to the opinion given by staff doctors. I would be somewhat concerned about that. Within the overriding aspect, I suppose it might be of some assistance to have a psychiatrist as opposed to two medical practitioners.

Mr. Sheppard: A very interesting comment. What about a registered nurse or a supervising nurse from another hospital or something? Dr. Vincent, would you comment on that?

Dr. Vincent: I think that could be quite appropriate. I think the composition could be very different and still be effective. When you were asking about a psychiatrist, I was thinking we would have to raise the fee structure a little bit to attract a psychiatrist because the board of visitors typically comes for a whole afternoon, and they get \$50 each for the whole afternoon.

Mr. Rotenberg: Who pays that \$50, Homewood or the government?

Dr. Vincent: Homewood.

Mr. Rotenberg: You pay it out of your budgets?

Dr. Vincent: Yes.

Mr. Watson: Does the government set that? Who sets it?

Mr. Chairman: If I may make a comment, probably a judge was picked originally because he was probably free to the community.

Mr. McNeely: Yes. You are worth what you are paid.

Mr. Chairman: I am thinking, maybe it is more to a sheriff, but it is more particularly aimed at the crown attorney in his--

Mr. Epp: They should have put in a politician. They could have got him for \$35.

Mr. Breaugh: Speak for yourself.

Mr. Chairman: In the crown attorney's professional capacity, he is the person who lays charges in the community. The sheriff, as local registrar, also issues writs, but yours is more of a mechanical duty, although you are the officer on discoveries and so on.

Is there not a chance of some real conflict of interest there when the person who lays charges in the municipality is also one of the board of visitors who has some responsibility? Is there not an obvious potential conflict there? If a person were bringing an action, that is civil. But if a person were looking at criminal proceedings, is he not very much caught in a dilemma? Perhaps the sheriff could answer that a little more, allied with the crown attorney.

Mr. Goldrich: I think the crown attorney, in prosecuting charges, might find himself in a difficult position, more in regard to a death occurring in the institution as a result of which a coroner's inquest might make some recommendations. That would probably be a more difficult area for the crown attorney to handle.

In so far as my own duties are concerned, in the civil line, I could come into conflict somewhat. But if I am fortunate enough to have other staff who have the same authority I do and can function, I could bow out of the proceedings, if you like.

Mr. Chairman: From the point of view of a judge, I suppose, in criminal appeals you could come into it, or in civil you would almost have to defer from the bench, would you not?

Judge McNeely: If any real Homewood problem or question arose in a case, I certainly would not sit on it at all. One of the things that is a little bit bothersome about this act from my point of view, or I suppose from the point of view really of anyone who is on the board of visitors, is that because the provisions of the act are outdated, we are put in the position where almost of necessity, if you read the act, it looks as though some of the things in it are not being done, for instance, interviewing patients.

This is all very well. We can come here and we can explain to you why that is so. But if you get a cause célèbre at some time involving an incident, you know everyone is going over that act with a fine tooth-comb and it is going to be the local law enforcement officials carrying out those duties. It has never happened. But it is one reason why, if the act is to continue, I would like to see it amended, at least to the extent we can be in compliance with it. If the act is there, I want to obey it. I do not want it to be impossible to obey.

Mr. Rotenberg: May I ask a question along that line? We have skirted around this issue several times. As I said before, one of the functions of this committee in reviewing your board is to consider the legislation and what is wrong with it. Obviously, you are much better equipped to understand what is right and what is wrong with the act than we are. Would you find it within your power of jurisdiction to write some form of memo to this committee indicating the areas in which you think the act is outdated, what areas of the act should be removed, what areas possibly should be changed and what areas should be kept?

In response to our research brief, some time later on this spring, we hope to make recommendations to the Legislature about your group. We would like to make, especially in the light of what you have said, recommendations for changes in the act. Would you find any problem in sending this committee some form of memo on what you felt was wrong with the act?

Mr. Breaugh: That would be refreshing.

Mr. Epp: Before he answers that, with all due respect, I do not think it is fair to ask him that question. He could have some discussions with our researcher about recommendations, but my own bias would be that I would not want to see him write a memo recommending certain changes.

Mr. Rotenberg: Whether it is an official memo or just an unofficial conversation with our researcher, I would like your input. In what way would you be most comfortable giving your input on what you felt should be changed in the act?

3:10 p.m.

Judge McNeely: When we were asked to appear, we were invited to fill out a questionnaire. When we filled it out, I did send a letter along with the questionnaire adding some comments. I mentioned two or three things I have mentioned today, which are also mentioned in the background paper you have from your research. We have raised, and I think the discussion here has raised, the areas we feel merit some consideration by the committee. I do not know that anything further we could do would help you any more.

Mr. Rotenberg: Perhaps our researcher could, by going through Hansard, pick up those areas he felt should be amended and, if he deems it necessary, he could consult with the judge on an informal basis just to clarify some points. Then his report

might indicate to us where he felt the act should be changed and we would have the judge's feed-in and the board members' feed-in on a more indirect basis. Maybe that would satisfy Mr. Epp's point.

I was not in any way trying to embarrass you. I hope you understand that. You have been quite a forthright with us, and I really appreciate it.

Judge McNeely: As I say, I did set out the matters and I think the background paper raises a couple of issues. I think when you boil it down, it is a matter for the Legislature. You have the responsibility; it is an area within your competence. In 1913 they decided this was the way it was going to be handled. You are reviewing these things, presumably, so you can see whether in 1984 it has worked in such a way that you want to continue it or want to make a little change.

Mr. Rotenberg: Has this act not been amended since 1913?

Judge McNeely: I do not believe it has been subject to amendment.

Mr. Breaugh: That is not the only thing that needs to be amended around here either. We know who has had power for 40 years and who is responsible for that one.

One final question from me. It seems to me that for practical purposes what the board of visitors does at Homewood is done in other areas by a local panel of citizens that goes around, visits public institutions and says they are clean or they are dirty or people are well fed or not well fed or whatever. It does not really address itself to things like care, but then you really do not do that either in a real sense.

Would there be an objection on the part of the sanitarium to a proposal to let a public inspection panel visit the sanitarium, as they would, say, Whitby Psychiatric Hospital in my area, and really carry on much the same function as the board of visitors? Would that be a problem? You are a private institution, not a public one.

Dr. Vincent: No, I do not think it would be a problem. Obviously, such a committee would respect confidentiality and all those kinds of things, so they would function, you are saying, very much as the current board does or should do in an updated mandate. I do not think that would present us with a problem and I think we would probably look on it positively in that it decreases suspicions if some outside groups come into your organization, look around, see things and report on them.

Mr. Breaugh: I think when you get right down to what the board of visitors does it is very similar to the type of work that is done by a panel in other jurisdictions. I am somewhat concerned by the conflicts that are raised by having the judge, the crown attorney and the sheriff sit on the board of visitors, whose judgement merely says that probably it is not going to cause a problem until someone decides he wants to cause a problem. If that

should occur, it puts all three of these people in a very embarrassing position. It seems to me we have to consider that when we do the report.

Judge McNeely: Offhand I would think the amendment is a very good idea. The public institutions inspection panel goes out twice a year, and when you get, I guess, six people drawn from the community with different occupations, it is really quite surprising the things they will notice in a place they visit that an individual going out might not notice. There may be some guy from a plumbing business or someone else with some other expertise, and you get different people coming in twice a year. They do uncover a lot of things.

Right now, of course, the public institutions inspection panels can only inspect institutions that are supported wholly or in part by public funds. It is an iffy question as to what constitutes public funds. There are some cases giving a special definition to it. I think if the committee felt it would be useful to have the public institutions inspection panel inspect, then the simple thing would be just to put a provision in the act that, notwithstanding the provisions of any other act, the Homewood shall be inspected by a public institutions and, if you want to put a limit on each visit, that it be twice a year.

Interjection.

Judge McNeely: That would be up to you. Either way, it would be of some value whether you have the board of visitors continue or not. The people on your public institutions inspection panel not only bring diverse backgrounds, but to some extent they bring the accumulated information they may have.

There are dangers in this area too. You could get someone who wants to ride a particular hobby horse, but then that can be dealt with. At least you would have some assurance that any problems certainly are likely to surface in those reports over a period of time. We have six different people from different backgrounds going in twice a year asking questions and looking. There would have to be some discretion because these are patients. They are in a treatment setting; they would have to exercise discretion. But then they have the same problem with the public hospitals that are subject to their inspection now. There is no real difference.

Mr. Breaugh: I should not ask this, but I have one final question. Is it true that in our only privately run hospital that I know of all the doctors are on salary?

Dr. Vincent: Yes, that is true.

Mr. Breaugh: Shocking. Absolutely shocking.

Interjections.

Mr. Rotenberg: In the light of what the judge has said, I wonder if our research can get us a little more information on

the public institutions inspection panel and see how it may dovetail?

Mr. Watson: Yes, that was really part of what I wanted to pursue. I wanted you perhaps to make a comment from the other side of the fence because rather than a visitor you have been a visatee of these panels. Some judges appreciate them and some do not appreciate them.

Judge McNeely: The public institutions inspection panel?

Mr. Watson: Yes. You can put on their hat and everything. You have probably been visited by them is what I am saying.

Judge McNeely: This is a general area. This is another area where the grand jury used to have a genuine judicial function. It decided whether there was enough evidence that a person should be put on trial. When it abolished the grand jury, the province decided there was still some merit in what I think is basically an administrative function, going out and inspecting public institutions and so on. But it was convenient to have them report to the county judge, so even though all their judicial function has disappeared, has been taken away from them, they still make their report to the provincial judge.

I really do not see anything particularly wrong with that. In that case, it only involves the sheriff in summoning the panel members. It involves the judge in instructing them as to their duties, which are set out in the act anyway, and receiving their report. Then, under the act, he is required to forward it to the Attorney General.

The Attorney General sends those comments to every department affected and gets their replies. When the next public institutions inspection panel comes in in six months' time, it gets all those questions and all those replies. While there is some minimum involvement in something that basically is an administrative matter, it seems to me it is working fairly well. I do not think the public institutions inspection panel imposes any hardship on anyone.

3:20 p.m.

Mr. Watson: In a way, that answers half of what they do. In other words, if the paint is chipping they will see it and say, "I think it should be repainted." That is what I take it you refer to as an example of an administrative type of thing that should be done.

What about the office of the Ombudsman, in terms of what you visualize the Ombudsman doing versus what you as a visiting board do? I am getting at the other half of this as to the patient care. In other words, if there is a patient in there who wants to complain, in 1984 is he not likely to first think of the Ombudsman before he thinks of the board of visitors?

Judge McNeely: They have their board of review that is in front of them all the time. They have their member of the Legislature who is a kind of riding ombudsman, I suppose.

It seems to me that on any of these things the problem is that someone has to make the move before somebody reviews a situation. The Ombudsman would respond to a complaint, I imagine. A member of the Legislature would certainly look into something, and the board of review as well. They are set up for that very purpose. They would certainly look into it. I suppose we would also respond to a complaint, an individual complaint within our area.

The board of visitors maybe beyond that has the continuing duty of going there. Also, to some extent, it gets to know the staff. It knows the questions that it asked them last year, and it knows the answers it got last year. If it asks the same question this year and gets a different answer, it wonders and it will pursue the matter further.

The Ombudsman has a broad responsibility. The board is restricted to this particular institution. I think they probably would feel that they have an obligation to try, within the limits of their abilities anyway and the limits of the act. They have some positive obligation quite apart from complaints. Even if no one complained, if we saw that people looked dirty, I think we would ask questions and say, "How come they look dirty?"

Once I read in the newspapers that one of the ministries had issued a directive as to the hours of meals for patients in some hospitals. Because there was such a large number of them, they were staggering their meals over a period of time so that the last meal that some people received in an evening was quite early, the middle of the afternoon, for example. I notice that in the paper, so the next time we are up there on a visit, we inquired about their practices there.

This is the sort of thing anyone would do who was on the committee.

Mr. Watson: One of the things I see against this public inspection panel is that you are a continuing body. If the public institution panel made its inspection today and some incident came up tomorrow, the makeup of the public inspection panel would be dissolved. Am I not correct on that?

Judge McNeely: Yes, it is not a continuing body.

Mr. Watson: It is not a continuing body such as you are. I guess what I am looking for is if, in terms of the administration, we had some group go in and inspect the floors and the ceilings and whatever twice a year like the public inspection panel does, then how do we handle, or what body is there, for the ongoing complaints that might arise?

That is why I am just digging into the fact. Could those kinds of things that might arise be resolved? Is one of the

possibilities of resolution the Ombudsman? I do not believe you have answered that.

Judge McNeely: I suppose it is pretty hard to build the Ombudsman into any system. He is sort of freelance.

Mr. Watson: If we did that, we would be as bad in 1984 at naming the Ombudsman as we were in 1913 at naming the judge.

Judge McNeely: I do not know. If you had your inspection panels and they reported on specific things, then if there was a board of visitors, presumably it would have to direct its mind to those things. They would have the report and would then presumably be asked to make some response to criticisms.

I agree that the policing aspect, if you want to put it like that, of the inspection panel consists largely of the fact the report is made and is a public document. In other words, if someone goes into a hospital or a children's aid society or something and says there is no fire extinguisher and so on, that is a public document.

The people running the institutions that are inspected know that if anything ever happens the first thing anyone is going to do is say, "Let us see what people have said about this after their inspections." If they have not, their necks are in a noose.

I am not suggesting that is why they would make improvements. People make improvements because if it is brought to their attention. If they see it is a good and proper thing to do, they will do it. The mere fact their reports are public is a bit of a built-in enforcement.

Mr. Rotenberg: Are the reports of the board of visitors public?

Judge McNeely: No. There is no provision for making them public. We make our reports in what they call a visitors' book which is kept at the institution. I would have to refresh my memory. That is probably available for inspection by the public if someone asks, but I could not be certain about that. I will check it.

Mr. Chairman: Could I try to clarify one thing? Do any of you gentlemen know whether this institution would be subject to the Ombudsman's jurisdiction?

Mr. Breaugh: It is a private business.

Mr. Epp: It has public funds from the Ontario health insurance plan. Does that put you somewhat in the category of a public institution?

Judge McNeely: Probably not. As far as the public institutions inspections panel is concerned, a number of cases come up where people wanted to go and inspect what you call private nursing homes. The interpretation that has been made,

because it really hinges on the interpretation of public funds in the Financial Administration Act, is that the mere fact an institution receives, for example, a per diem rate to which it is entitled from OHIP does not make it an institution supported in whole or in part by public funds, just as a doctor, by getting his income from OHIP, would not become a person supported in whole or in part by public funds within the meaning of the term as used in the Financial Administration Act.

Mr. Watson: What if someone there was objecting to the rate being charged? We have been told OHIP pays \$120 a day and the rate is \$138 a day. I guess I should start back at the beginning. How is that rate of \$138 set? Is there any control on that?

Dr. Vincent: Basically, the part that is covered by OHIP is controlled by the Ministry of Health. We submit a budget that covers our costs during the course of the year in the same way every public hospital does.

The agreement is we can set the differential charged for semi-private or private. At the present time the agreement is we can set it at whatever level we want and split it 50-50 with the Ministry of Health.

Mr. Watson: I will ask what to me is the obvious question. Why is it not \$148 instead of \$138?

Mr. Breaugh: Free enterprise.

Mr. Watson: There is not a lot of competition out there. If you want to get into business terms, you have a pretty good monopoly on this.

3:30 p.m.

Dr. Vincent: I guess it is not \$148 because it has been set at \$138. I think it could probably be set at \$148, but we have not felt a particular need to do this. At some point I suppose you would price yourself off the market. Why not \$348? I suppose the answer is nobody would be admitted if that were the price.

Mr. Breaugh: Okay, that is fine. Let us leave the example that way and turn to the board of visitors. Do you have any involvement in that? If they raised the rate and somebody--although I suppose it would be irrelevant if somebody there came to you and said, "You are the board of visitors and these people are charging too much"--would you have any function in that pricing? Or would you say, "That is their business. If you do not like it, leave it."

Judge McNeely: It has not come up. If we received a complaint of that nature, probably we would take a close look at what our authority is under the act and see whether it was an unreasonable interpretation of it--to see if it were an area we ought to get into. We would go on from there.

Although that question has not come up, I suspect we would probably feel it was an area the government, in setting up the

act, did not intend us to get into. It would be a matter of interpreting the statute. If it arose we would have to look at it. If the statute cast a duty on us to get into that area, then we would have to get into it.

It is a private corporation that operates the hospital. Basically, the committee has been carrying out inspections and we have not got into that area. We certainly have to look carefully to see if it is an area we are entitled to get into.

Mr. Watson: Private corporations that have monopolies tend to have some type of control. Where are you controlled? Where do you see that control?

Dr. Vincent: We do not have a monopoly. The province provides entirely free psychiatric beds for every patient in the province. Every hospital has its catchment area so every citizen of Ontario has a psychiatric hospital to which he can go free.

Our problem is anything but monopoly. It is the exact reverse. We have to provide more than the provincial psychiatric hospitals to attract people to come and pay out of their pockets for something they can get for nothing from the provincial government. If somebody were in our place and said he could not pay it because he finds it too expensive, we would help him get to one of the provincial psychiatric hospitals where he would not have to pay.

Mr. Watson: The people in your care who are there because of the arrangement that you provide these 10 beds--

Dr. Vincent: It is a minimum of 10. On average it is about 40 people.

Mr. Watson: Okay, but you indicated there was a fair number who were there because a compromise had been reached between the two hospitals and you were providing the service. Is the service to those people provided by your staff doctors or by outside doctors?

Dr. Vincent: The same. They may be rooming with somebody who is paying the differential. There is no separate unit or ward. They are mixed in. They take the next empty bed available. They have the same staffing, meals and everything. By and large, for most of the patients at the hospital, many of the others would not be aware they were getting a special deal, as it were.

Mr. Watson: Because the Ontario health insurance plan pays the first \$120 and then splits the cost, the Ministry of Health looks at this as something it will pay for anyway. They believe, therefore, it does not matter whether they pay it through a doctor billing the patient or the doctor being in the employ of Homewood.

Dr. Vincent: For the doctor, that would be the case. As for the location, the thing that confronted them was whether to pay whatever capital costs to put up a psychiatric unit in Guelph or to pay half the differential in order to have those beds. That

was the issue then. They said it was much cheaper to pay a portion for the bed than it was to go into new construction and build a psychiatric unit in one of the hospitals.

Mr. Edighoffer: I have a brief question for Mr. Goldrich. I guess he is the senior statesman on this. For 15 years, did I hear?

It is stated in the brief that all visits were made without any prior notification to anyone at the hospital. Has that taken place over the last 15 years? At what times do you go to visit?

Mr. Goldrich: Generally speaking, the chairman indicates that a visit should be made and communicates that to the crown attorney, who is the secretary of the board of visitors. The secretary then lines up the board and sets the appropriate date and hour. We simply attend at the institution.

Mr. Watson: They do not know when you are coming?

Mr. Goldrich: No so far as I am concerned. I have had nothing to do with that. I am told when to be there, and I arrive at that time.

Dr. Vincent: On the other hand, usually somewhere between 1:30 and 2 p.m. on a particular day, I can phone my secretary, who says: "The board of visitors just called. They are on their way." Then you start reorganizing your afternoon.

Mr. Breaugh: So they do give you advance notice.

Dr. Vincent: You cannot clean up a very bad mess in half an hour.

Mr. Edighoffer: I do not know whether I should ask this question. You say your reports are private so you cannot give us any idea of the type of reprimands you give to the superintendent or president or board of directors. You cannot give us any idea of the types of reprimands or suggestions you have.

Mr. Goldrich: I cannot recall one.

Mr. Edighoffer: That leads to one brief final question to Dr. Vincent. Do any representatives of the Ministry of Health come and review those reports?

Dr. Vincent: Representatives of the Ministry of Health often come around and go through our facility in a variety of different capacities, but I do not recall any of them ever having asked for the visitors' report.

Judge McNeely: I believe they used to, but not in our time. When I knew this meeting was coming up, I got the old board of visitors' book and looked through it, and you can see that at one time they used to send a copy of the report to the Ministry of Health. That ceased after a certain period of time. Presumably, the ministry was not particularly interested in it, and there may not have been very much in them.

As Mr. Goldrich said, basically, we make the inspection, we ask questions and so on, but we have not really found any areas--I do not know if somebody else would or not. I do not think so. There has not been a case where we found things wrong and had to say, "Do this, and we will check on you the next time." If it happened, we would, but it just does not seem to happen.

Mr. Goldrich: May I make one comment? If you are following the thinking going on earlier this afternoon in connection with the public institutions inspection panel carrying out the functions we have been carrying out, you might want to make those inspections mandatory under the act instead of optional, as they might be. Under the present act the only mandatory building inspections that are mandatory are for the courthouse and lockups within the jurisdiction.

Mr. Chairman: Thank you for that suggestion. That being all the questions, I thank you for coming this afternoon and for being very open and helpful.

Judge McNeely: Thank you, Mr. Chairman. It is nice to know that even if 99 per cent of the people in Guelph do not know we exist, the Legislature does. We thank you for paying some attention.

Mr. Chairman: Not at all. Thank you.

Members of the committee, we have time now to review the other three that we did not review this morning. Is it your wish to do that at this time?

Mr. Breaugh: You have time but you do not have a committee. I do not think it makes any sense to proceed with the bulk of the committee in absentia. Here we are with two Liberals, two NDPs and one Conservative, I do not see how we can go on.

Mr. Lupusella: Do you think that we should meet at 10 o'clock in the morning?

Mr. Breaugh: I do not think it makes any sense to do it when there is nobody here to listen to it.

Mr. Eichmanis: The last three are scheduled for the last two days of next week. We have until next Wednesday to find some time, if the committee wishes to review those matters some time between now and next Wednesday.

Mr. Chairman: Fine. Then we will defer that. That ends it for today. We will meet at 10 o'clock tomorrow morning.

The committee adjourned at 3:41 p.m.

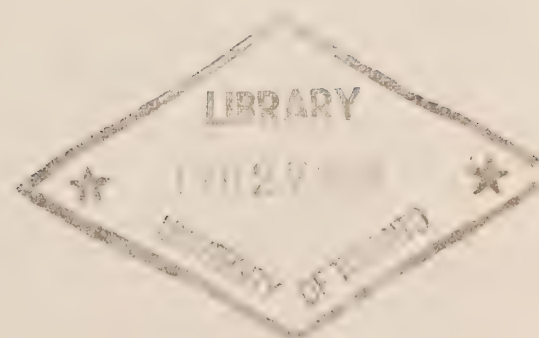
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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
ONTARIO BOARD OF PAROLE

TUESDAY, FEBRUARY 14, 1984

Morning sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Hennessy, M. (Fort William PC)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Lupusella, A. (Dovercourt NDP)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Sheppard, H. N. (Northumberland PC)

Clerk: White, G.

Staff:

Eichmanis, J., Researcher, Legislative Library
Kilpatrick, M., Researcher, Legislative Library

From the Ministry of Correctional Services:

Clark, D. M., Chairman, Ontario Board of Parole
Lefebvre, J. A., Executive Vice-Chairman, Ontario Board of Parole

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Tuesday, February 14, 1984

The committee met at 10:12 a.m. in room 228.

ONTARIO BOARD OF PAROLE

Mr. Chairman: I see an unofficial quorum--but we have an official quorum here now. Shall we begin?

We have the Ontario Board of Parole both this morning and this afternoon and I take it the people in front of us are Donna M. Clark and Jerome Lefebvre. Do you have any kind of an opening statement?

Miss Clark: Yes, a very brief one.

Mr. Chairman: Have you given it to the clerk?

Miss Clark: No, it is hot off the press.

Mr. Chairman: Fine. Thank you.

Miss Clark: I think we would just like to comment on the transition period that the board has gone through since roughly August 1978. It has expanded from a very small central board to the board we have now, which includes five regions throughout the province. That occurred through changes in federal legislation and the straightening out of the sentencing system. Division of sentencing was made a straight two years less a day with no definite or indefinite splits of sentences and that sort of thing.

The legislation cleared up those matters and made the parole function under the federal act open to the province for all of its inmates in all of its institutions. The current Ontario Board of Parole deals with all inmates in those institutions, unlike the split jurisdiction of the federal board and the provincial board prior to that.

Mr. Mancini: You are saying because of federal legislation you had to expand the--

Miss Clark: That is correct. Provinces are given the option to run their own parole board under the federal act if they so choose. There are three provinces in Canada that have chosen to do that; British Columbia, Quebec and Ontario.

Mr. Mancini: So you do the work the federal board was doing, is that it?

Miss Clark: That is correct.

The kinds of problems that created for the board are likely to be reflected in some of our discussions, so I will just briefly

note the kinds of shifts it meant for us. We went from a very small centralized operation located in Toronto to a decentralized and regionalized operation throughout the province. Prior to that time the board was used to working in an informal way with few stated policies and procedures. We went to a situation which required much more formal statements.

It moved from a small case load, which I will try to portray to you on the overhead shortly, to an expanded load which has been increasing along the way since that date. It went from a small member and support staff complement to a fairly extensive one. It moved from a simple information system to one that required links across the province into a much more complex information system.

In the midst of all that, there was a changing financial and legal climate which has impacted on the board. At the time of expansion, the predicted case load at the front end of the board's work was 4,000. In the first year it was in fact 5,440.

I would like to show you the slides, because I think we can portray the growth since that time.

I think you can pick out the figure I just mentioned and then you can see where the graph goes from there. When I talk about a front-end load, I am talking about the number of cases that are brought to the board's attention, either at the hearing stage or what we call the regional office review meeting. Not all of those cases end up in actual hearings, but it is the beginning stage of the work.

Mr. Eichmanis: Could you perhaps indicate how the graph works?

Miss Clark: It is a simple bar graph just showing--the numbers to the side will give you the actual cases brought to our attention. The percentages just show the percentage increase from year to year.

The year 1978-79 of course reflects the largest increase and that is the time of the expansion. One of the comments I might make about that is it is obvious that, with the provincial board assuming jurisdiction, there was far more access to and activity in parole.

Mr. Lupusella: Who initiates the action of the hearing, the individual or somebody else in--

Miss Clark: It can be activated by the legislation that defines eligibility, which means that with sentences of six months or more the board automatically sees the inmate.

Mr. Lupusella: Automatically.

Miss Clark: Automatically. Under six months they must apply to the board. Other people can raise the question with the board. We have lots of people in touch asking us whether someone

can be considered for parole. Our initial guideline would be the legislation.

These are the cases that come to the board's attention at the beginning.

This represents the actual cases dealt with in hearings by the board at the institutions. If you will note, there is usually somewhere between a 1,500- to 2,000-case difference in those figures. That reflects people who are choosing not to proceed with their board hearing at that particular time, the time they are initially eligible. They waive that opportunity for a variety of reasons.

10:20 a.m.

As near as we can analyse this, and we have not been able to do that well enough, there is a group that does not wish to be on parole, does not wish to have any kind of supervision in the community. There is another group that essentially does not seem to have the resources to make plans for parole. Those seem to be the two major categories.

Mr. Lupusella: I can see that the number of cases is extremely high. What kind of criteria is the board using to give priority to the case per se? What chronological order does the board follow in order that everyone will have the same opportunity in the same time?

Do you face delays? Do cases that have some merit to be heard before the board immediately eventually have to wait one year or six months or three months in comparison to others whose cases may be heard immediately? What kind of criteria does the board use to open a claim in relation to the parole issue?

Miss Clark: The institutions are the staff who calculate the parole eligibility date. When that date is calculated and given to the inmate, we are also alerted that they should be scheduled for a hearing; so the scheduling for a hearing is a co-ordinated process between the institutions and ourselves. The scheduling is quite automatic in the sense that we attempt to see people about three to four weeks before their eligibility date, and that is the only factor. We see them by that time.

This is a combined chart on those who are actually heard in institutions and those cases actually reviewed in a regional office meeting with the board. The difference in the figures between what actually finds its way into consideration is the waiver factor and those cases deferred because information is not available or needs to be sought.

Mr. Mancini: Are you saying that in 1984-85 you expect to review 15,000 cases? Is that what you are saying?

Miss Clark: Approximately.

Mr. Mancini: What is the inmate population, then, if you are going to review 15,000 cases in one year?

Miss Clark: The inmate population, as you know, is constantly turning around, and while there is a capacity of some 6,000 or so, there are many more who pass through the system than that.

Mr. Mancini: It seems that if the capacity for the inmate population is 6,000 and you are going to review 15,000, you will have to have a 300 per cent turnaround through the institutions, so there must be a 30-day stay.

Miss Clark: There are quite a number, yes. As a matter of fact, the majority of inmates in the province serve short sentences, so there is quite a turnover in the lower ranks and less turnover in the longer sentences.

Mr. Mancini: So you are saying that if somebody is sentenced to 30 days, you have a parole hearing for him, too?

Miss Clark: Not automatically. Most often we would not receive a request from the group under 30 days. That is true.

Mr. Mancini: It would not be much more, because if you are reviewing 15,000 cases, the average stay cannot be much more than 30 days.

Miss Clark: Those are case contacts; they are not individual bodies. It is not 15,000 bodies. It could be 5,000, 6,000 bodies. We do not know that count.

Mr. Mancini: Then why do we have the figure of 15,000 up there? Why are we short 14,000 and something?

Miss Clark: It is the number of times the board has contact with individuals.

Mr. Epp: So you could have contact three or four times with each individual?

Miss Clark: Yes, that is right. For example, a person may be turned down for parole and may reapply to the board for a review of his situation. He may do that several times, depending on circumstances. If I may just clarify, it also includes those contacts on cases we are supervising, particularly in the office review meetings.

Mr. Rotenberg: These people are out on parole.

Miss Clark: People go out on parole. A parole officer will call in and say: "We would like to vary the conditions of parole for these reasons. What is the board's position on it?"

Mr. Epp: What happened between 1977-78 and 1978-79?

Miss Clark: That was the expansion of the board from one central body to five regional bodies and taking over the federal jurisdiction in the province so we took the total work load for parole in the province.

Mr. Mancini: I just want to get back to the 14,000 or 15,000 figure. I still do not have clear in my mind exactly what a contact with the board is.

Miss Clark: It could be a hearing. On one slide, we showed the separate numbers for the number of actual hearings. It could be a contact with the office review meeting, which we also showed separately. This is the combined figure.

Mr. Mancini: Is that a phone call or a letter or what?

Miss Clark: No. It would be a consideration in that office review meeting. In other words, it would be the board sitting down, looking at the file of the individual and rendering a decision on the issue that has been raised.

Mr. Mancini: There would be a three-person panel?

Miss Clark: Yes.

Mr. Rotenberg: Is that the number of times the panels meet on a case, whether the person is there or not, in jail or out of jail?

Miss Clark: That is right. That is the number of case contacts we deal with.

Mr. Rotenberg: And the number of actual hearings, I guess you would say. Would you?

Miss Clark: In that other chart, yes.

Mr. Rotenberg: Would that chart be the number of actual hearings or board sittings?

Miss Clark: Yes. This chart shows both of those.

Mr. Rotenberg: They could do a number of cases in any one morning or any one afternoon, could they?

Miss Clark: Yes.

Mr. Mancini: How many people would be out on parole in the province at any one time?

Miss Clark: Currently, 1,650 or thereabouts.

Mr. Mancini: We have a capacity in the institutions of 6,000 and we have fewer than 2,000 parolees in the province. That gives us fewer than 8,000 and we have anywhere from 14,000 to 15,000 contacts.

Miss Clark: It is possible, yes.

Mr. Rotenberg: Would people be on parole for less than a year? Let me put it this way: Of those 14,000 contacts, about how many different bodies would be involved?

Miss Clark: We do not know that because it is not calculated that way. My guess would be about 4,000 to 5,000. We do not know that.

Mr. Rotenberg: Would there be about three contacts for each person?

Miss Clark: There could be. It could vary from one to seven.

We will back up and show the figures again.

Mr. Lupusella: Could I ask a question supplementary to Mr. Mancini's? What Mr. Mancini asked--and I hope I am interpreting the question correctly--was that of the total number of active cases, are you including and incorporating correspondence, for example, from a third party outside, with letters sent to the board that need its attention as well? Are you calculating this correspondence sent to the board?

Miss Clark: That would be calculated if it came into the regional office meeting for review and some decision on the case.

Mr. Lupusella: Are you sometimes including in the 15,000 cases--and I am talking about 1984-85--this type of correspondence?

Miss Clark: That is correct. It could be.

Mr. Lupusella: From a third party outside writing letters on behalf of someone, which would need the board's attention?

Miss Clark: It is possible, yes. There is some correspondence that would not come into this because it is quite routine to answer, but if it raises an issue about the parole that is in progress and a board response is wanted, it would come to that meeting and we would deal with it.

Mr. Lupusella: Which means the actual active cases might not really be 15,000. There might be only 10,000.

Miss Clark: Or fewer.

Mr. Rotenberg: What you are saying is that this year there will be 14,000 decisions rendered by the parole board?

Miss Clark: That is correct.

Interjection: There is a capacity for 6,000 inmates and only 2,000 parolees.

Mr. Epp: This may not be the appropriate time to talk about procedures, filing and so forth. Are you going to be getting into that later?

Miss Clark: We will be open to any and all questions.

Mr. Epp: Mr. Chairman, would this be an appropriate time to ask a few questions on that?

Mr. Chairman: I think we are on numbers now. Let us finish the numbers.

Mr. Epp: Okay. I will get to that later, then.

Mr. Chairman: There is a bit of confusion here as to totals and repeats.

Miss Clark: This current table is reflecting the board activity on cases in hearings and regional office meetings. We do not know the core number of individual cases. It is just every contact that comes to us.

10:30 a.m.

Going back, if you take the 1983-84 or 1984-85 figures, in 1984-85 we project 7,308 actual hearings at institutions. In that, we may consider anywhere from six to 10 cases per hearing. That also varies from one to more, depending on whether it is a small jail or a large institution.

Mr. Chairman: Could I clarify one thing here? Mr. Mancini mentioned that there are 6,000 inmates at one particular time and another 1,600 or so on parole. That is per year.

Miss Clark: Not per year. He asked how many were on the street right now.

Mr. Chairman: Yes, and how many are in jail right now. Since many of them are for there for less than a one-year term, that 6,000 is a great number of turnovers. So that 6,000 in jail at any one time could be a total of 20,000 or 30,000 going in and out of the doors during the fiscal year you are showing.

Miss Clark: That is correct, yes.

Mr. Sheppard: Is there an age bracket where there are more people seeking parole, between the ages of 16 and 20, or 20 and 25, or 25 and 30? Can you give me some kind of figure?

Miss Clark: I can give you a rough estimate. The highest number of people incarcerated tend to be between the early 20s and the early 30s. That is the bulk of the group and then it falls off to the younger and the older.

Mr. Sheppard: That is what I wanted to know.

Miss Clark: The main group is in that category.

Mr. Lupusella: Mr. Chairman, I would like to raise a hypothetical question, to understand the number of cases heard by the board.

Let us say a person has been sentenced by the court to 18 months, 20 months, two years. In the meantime he is appealing the

decision to the Supreme Court of Ontario. Can he apply for parole and send a letter to the board before he is incarcerated?

Miss Clark: Yes. You mean if he is out on appeal?

Mr. Lupusella: No, he has been sentenced by the judge, so in theory he should be incarcerated, but his lawyer launches an appeal immediately to the Supreme Court of Ontario.

Miss Clark: That does not prevent him from having a parole hearing.

Mr. Lupusella: He can appeal immediately. So the individual might be outside and the parole system comes into action.

Miss Clark: No, he will not be outside. He would have to be out on bail if he was appealing. He therefore is not a individual sentence, and does not come to our attention. It is only if he is in custody. But he can be in custody appealing his sentence or conviction or whatever and be seen by the board.

Mr. Lupusella: So the individual, after being sentenced by a regular judge, has to be incarcerated and then the lawyer can appeal the sentence, while at the same time he can launch a parole hearing before the board.

Miss Clark: That is correct, yes.

Mr. Chairman: Are the numbers satisfactory to everybody now?

Miss Clark: I wonder if we could just show the individual statistics again for this gentleman. The 7,000 figure is the actual cases heard in an institution.

If you take 1983-84, there were 5,231 considerations made at a regional office meeting. That is not with the person there. Those are subsequent questions that come up on a case, either through supervision or someone wanting us to have another look, after we have declined them in the first place. The total then goes to 12,000 or 14,000 people.

Mr. Lupusella: Why are you giving the 15,000 figure for 1983-84 when the actual cases might be in the range of 10,000?

Miss Clark: The only reason we are giving these figures is they are the only ones we have. We do not have a case count. The ministry does not have a system of what is called a one-number case. It is possible in the system to have someone come in 20 or 30 times and there may be half that many files or as many files.

Mr. Lupusella: With respect, a lawyer might write 10 letters that are incorporated in the figure there.

Miss Clark: I must apologize. Those figures were meant to give clarification. I think we have succeeded in confusing you.

Mr. Rotenberg: With respect, if 10 letters came in on a case, that would not necessarily cause 10 hearings, would it?

Mr. Lupusella: No, but the board has to meet. So they are calculated as cases heard by the board.

Mr. Rotenberg: Not necessarily. Some letters would cause a hearing and some letters would not.

Miss Clark: That is right.

Mr. Lupusella: So who is going to analyse the individual letter on a case? The board maybe tells it to meet or--

Miss Clark: The vice-chairman of the region.

Mr. Lupusella: The vice-chairman, okay.

Mr. Eichmanis: I was wondering if you could help the committee by explaining the difference between hearings and when those are occasioned, and meetings and when those are occasioned. Maybe you could start from the beginning.

When a parolee first applies for parole he has a hearing.

Miss Clark: Correct.

Mr. Eichmanis: Subsequently his case can come up before a board at a meeting.

Miss Clark: That is correct.

Mr. Eichmanis: So in a sense you have two things going on. You have hearings and you have meetings dealing with the parolee. Some of your figures are relating to either?

Miss Clark: Both functions. The board hearings with the prisoner are held in the institutions and that is the beginning stage of the process. In that hearing, two or three things can be the outcome: A person could be granted parole, the conditions of parole set and eventually he would proceed under supervision. If the person is denied parole, he is given the reasons for the denial and the route by which he may make further inquiries is explained to him.

The further inquiry route is the regional office meeting of the board. That is held on a weekly basis in every region. It is basically set up to deal with all inquiries requiring some decision about action. The kind of inquiry we would get from the person who is granted parole is if, in the initial stages before release, plans fall apart and they or persons on their behalf were in touch with the board to make further arrangements.

If they are out on supervision we may get inquiries about case problems, a variation in conditions, changes of residence, employment--that sort of thing. It is really guidance to the parole supervisor and the parolee in the street situation.

If inmates are able to address themselves to the issues concerning the reasons for parole denial, they can approach the board again and say they have been able to alter the circumstances that have been pinpointed. That would come to a regional office meeting for a decision as to whether the board needed to have a further hearing with that individual. If the point involved a specific arrangement for a residence, for example, it may be decided in that meeting to proceed.

Mr. Eichmanis: When the board at the regional meeting wants to make a decision about a parolee, does it then use a hearing process rather than a meeting process?

Miss Clark: It is considered a quorum decision. It is not a hearing in the sense that the individual is not present.

Mr. Lupusella: But the board has the power to deny parole without the individual being present. So actually the hearing might not substantiate a decision that has been taken by the board, because maybe there is no ground for a hearing. Do they have such power?

Miss Clark: The board?

Mr. Lupusella: Yes.

Miss Clark: I am not sure I understand the question.

Mr. Lupusella: Does the board have the power to deny a hearing because they are of the opinion there is no case?

Miss Clark: Yes, it does.

Mr. Lupusella: And the individual is not supposed to be present at the hearing? It is a discretionary power given to the board?

Miss Clark: At that point, yes.

Mr. Lupusella: At that point, okay.

Miss Clark: I do not have statistics on that; I really cannot talk in percentages. We grant further hearings; we deny further hearings. I do not really know the extent of that.

Mr. Rotenberg: I would like to clarify this point, because I think it is important. You say if a person applies for a hearing, that application will go to a board meeting where the person would not be present. The board then would either grant or deny a hearing.

Miss Clark: That is right.

Mr. Rotenberg: It is my understanding--correct me if I am wrong--that when a person becomes eligible for parole he would pretty well automatically get a hearing.

Miss Clark: He always has a hearing unless he chooses not to.

Mr. Rotenberg: The first time on eligibility he must have a hearing.

Miss Clark: That is right.

Mr. Rotenberg: There cannot be a denial of hearing.

Miss Clark: That is correct.

Mr. Rotenberg: The discretion only comes on a rehearing, is that correct?

Miss Clark: That is right.

Mr. Watson: What is the difference between the parole and a temporary absence program? What is the connection there?

10:40 a.m.

Miss Clark: There is no direct connection. The institutions administer that program. The only connection it has with the board is in relation to considering a case. If a person has successfully used that program, it is usually a positive in the direction of parole, but there is no direct relationship between the two and we have no administrative authority in that program.

Mr. Watson: In a matter of philosophy--put it that way--is not a temporary absence program really a semi-parole type of program that is administered by the ministry rather than the board? I guess what I am saying from a philosophic--

Miss Clark: There are similarities.

Mr. Watson: The similarity is that someone is incarcerated and he is let out.

Miss Clark: During the day.

Mr. Watson: The temporary absence program is during the day, for work or that kind of thing.

Miss Clark: That is right.

Mr. Watson: What is different about that, except that you have to come back at night?

Miss Clark: That is the difference. The persons who are released on parole go to their home residences or other areas. They are no longer under the jurisdiction of the institutional division.

Mr. Watson: That leads to my next question. In granting parole, do you ever put on conditions that would amount to the same as a temporary absence program? Those must be decisions that

you make, are they not? You put down the criteria under which a parole is to be granted, the number of times the person is to report, who the person is to report to--

Miss Clark: That is right.

Mr. Watson: --at what times they can be out on the street and at what times they cannot. One of the things I want to get into, and I do not know whether you want to do it now, is what are the kinds of conditions you put on for people to whom you grant parole and how closely do you supervise those conditions?

Miss Clark: I think there could be some similarities between what the temporary absence program might put on an individual and what we might. I am not as familiar with that program. It is different in the sense they are in daily contact with the institution. They are there overnight and it is a different kind of system.

At the time of a parole hearing we review with the prisoner the statutory conditions of parole, as well as any special conditions the board may put on that parole. For example, it is not a statutory condition to impose a curfew. That would be a very selective condition that might be placed on certain individuals.

Mr. Watson: What are the statutory conditions for parole?

Miss Clark: Basically they are required to report to a parole supervisor, to maintain contact with the police, to submit a monthly report to the board, to keep their parole supervisor informed of their basic circumstances around employment, and not to change their residence without the permission of the supervisor. Those are the basic ones.

Special conditions can range over quite a spectrum, depending on the needs involved in the case. They are very individual. For example, if someone has a drinking problem there may be an abstinence condition. If someone is known to have a great many problems in his or her home situation around maintaining reasonable hours so as to maintain employment, we may put in a curfew as a special condition. That is often done in relation to the parole supervisor and the parents involved in a particular situation, so it is an individual circumstance.

Mr. Watson: What is the time frame for getting parole? How quickly can one who is incarcerated get parole?

Miss Clark: The board aims to meet that one-third eligibility date. If parole is going to be granted, for the most part it would meet that time frame, the one third of their sentence time frame. It could go beyond that if we have difficulty around police considerations, information or whatever, but that is--

Mr. Watson: A person must serve one third of his sentence, is that what you are saying?

Miss Clark: That is one third for parole.

Mr. Watson: They must serve one third. If a person got three months he must--

Miss Clark: Serve one month.

Mr. Watson: --serve one month before being eligible for parole.

Miss Clark: That is right.

Mr. Watson: I have an individual example which was turned down by the temporary absence program. It really came about because his employer wanted the person out on a temporary absence program, which I thought was pretty good grounds to encourage it to happen. I think one problem with most of these people you parole is they do not have jobs. Here is a guy who says, "I will look after him during the day because I need him here to work, and I happen to think he is a good person." That channel was not successful.

If what you are telling me is that person could come up for parole after a third of his sentence, my question at this point is--

Miss Clark: There is a possibility.

Mr. Watson: But is the fact the employer would employ this person a fairly positive--

Miss Clark: It is a very positive factor, because you are quite correct in saying many of them have difficulties with jobs. For those who have actual jobs, it is a very strong force. On the other hand, other factors may militate against that. I do now know the case, so it is hard to comment.

Mr. Watson: Apparently, that is the case. It had to do with drinking, and they said, "It is the second time," or something. I think all of us get contacted at different times.

In this case, this was just a new twist because my contact was with the employer who called me and said, "I need this employee." The local jail supervisor said, "If they will put him in here on a temporary absence program, we will be glad to look after the matter." He was in favour, but they sent him off somewhere else.

Mr. Mancinci: That was a ministry decision.

Miss Clark: Yes.

Mr. Watson: Yes. That is what I am getting at. That is why I am trying to get the difference and the connection between a temporary absence program and parole.

Miss Clark: There is the factor of the community climate at certain times. As you probably know, the matter of impairment and use of alcohol in an abusive way is, at the moment, a real hot issue in our community. I think there are times when programs are

sort of advised to take into account and be aware of the community's attitude about the issue. From time to time, I think you will see some variations in factors like that.

For the board, I know we have talked over the issue of the community's current concern and attitude about impaired driving and particularly those areas causing death. So we have tried to consider the problem in the light of what the community would feel is a responsible action on the part of the board in those kinds of cases.

It is very difficult when you have a case before you in which five people have been killed in a car accident as a result of impaired driving. With the climate the way it is, it is very difficult to make decisions in those cases.

In fact, I had a problem yesterday where the board paroled an individual who had been involved in an accident. Part of the parole condition, which was discussed with him beforehand, was the board would not entertain parole unless he was prepared not to drive during parole. We had a complaint come up about this condition. Some four months later, the parolee is complaining the board does not have the right to set that condition, and he wants the opportunity to drive. It is a difficult situation.

Mr. Mancini: Once you have paroled a person, can you rescind that decision?

Miss Clark: We can. We can choose to change that condition, if we feel it is merited.

Mr. Mancini: Not to get off Andy's topic, I just want to follow this through with one more question. If this individual now insists he wants to drive, and say he goes to court and the court says, "No, you cannot tell a person he cannot drive," can you then rescind his parole?

Miss Clark: We would have to. If the court ordered we did not have the authority to do that, then we would have to.

Mr. Mancini: Why would he be after you to change the conditions of the parole when your doing so would require you to rescind his parole and he would end up back in--

Miss Clark: Oh, I am sorry. We would be required to rescind the condition. I misunderstood you. No, we would not be required to rescind the parole.

Let me put it this way: If a court agreed with his position that we did not have the right to impose such a condition, then the board would have to withdraw the condition.

10:50 a.m.

The other problem for the board would be, do they feel this person's risk factor is going up as a result of that? Do they feel less able to support the idea of parole for him if he is able to use a vehicle, given the kind of offence he was involved in?

Mr. Mancini: They can then rescind a parole?

Miss Clark: They could.

Mr. Chairman: Mr. Watson, are you through with that line of questioning?

Mr. Watson: No, I would like to continue and I think some of the others want to get in on this point, too. It is very interesting. You obviously feel that you do have the right to attach that condition.

Miss Clark: I think we did in that case. It is not a usual position for the board to take. We do not, across the board, suspend people's driving privileges. It would be a very unique step for the board to take.

Mr. Watson: When you suspend that driving privilege, is the driving privilege not already suspended by the sentence the person received?

Miss Clark: Not always. In this case, it was suspended for a time and then restored. Somewhere in the process of parole it was restored by the Ministry of Transportation and Communications. It was not under suspension for the whole period of time.

Some of the situations around the sentencing and the licence suspension do not quite--

Mr. Watson: Let me get at it the other way then. In terms of a parole, you cannot overrule a court.

Miss Clark: No.

Mr. Watson: In other words, you could not go the other way. You could not let a person have a licence if it had been taken away from him by the court.

Miss Clark: No, we could not give it back.

Mr. Watson: If the court said, "You cannot drive for three years."

Miss Clark: We could not change that.

Mr. Watson: You cannot change that. When you take the licence away, when you take that privilege away, is this a matter of just saying, "Do as we ask you to do," or is it a matter where you actually would contact the Ministry of Transportation and Communications to take the licence away?

Miss Clark: It is only us saying to this individual, "During parole you may not drive your car." It is a condition of parole. He may have his licence.

Mr. Watson: He may well have a valid driver's licence in his pocket.

Miss Clark: It is possible.

Mr. Sheppard: Pardon me for interrupting, but if he had a job, would you give him permission to drive from, we will say, 7:30 until he got to work at eight o'clock and then from five o'clock when he got off work to 5:30 so he could drive home and then not drive until the next morning? Would you put that in the regulation?

Miss Clark: It is possible we would do that. In fact, this is one of the questions that has been raised about this case. He has been working fine for four months but now he is saying it is a problem and he needs to drive to work. It will be a matter for the board to investigate whether that is true or not.

As I say, that kind of condition is very unusual and it is related primarily to those offences where a death has occurred.

Mr. Lupusella: Mr. Chairman, I have a question. Do you have any statistical data of how many people on parole every year are committing a second offence while a parole has been granted and what kind of offences are committed?

Of course, we are talking about the drinking driver. I am more concerned about more serious crimes. It appears there is a general public perception that a lot of people should not be paroled, that they should be inside. To the public, getting a parole seems to be an easy process. Is it a question of the board's judgement or that it made a mistake? I really do not know, but they are outside committing violent crimes. Do you have statistical data on that?

Miss Clark: In terms of the percentage of people we get to see who are granted parole, it is in the range of 55 per cent. It sometimes goes a little below or it sometimes goes above, but that is about the percentage. About 55 per cent of cases are granted parole in that first hearing stage when we are deciding parole.

Out of the people who are released on parole--these are our current statistics--77 per cent complete that without incident. Among the 23 per cent that are revoked, I think four per cent are reconvicted on a further charge.

Mr. Lupusella: While a parole has been granted?

Miss Clark: While on parole; on the street.

Mr. Lupusella: Do you have any statistical data as to whether the same people, when they are paroled and the sentence is finished, come back to the court system again and are incarcerated? Do you follow any pattern in regard to the same people?

Miss Clark: I do not have actual statistics on that. There is quite a revolving movement.

Mr. Lupusella: Why is there this public perception that it is easy to get parole? Is the board more lenient? There is also another public perception that the courts are lenient on sentences. Maybe what is happening is you are granting a parole because the judge's sentence was not a strong one. Maybe the individual deserved one year and got six months, and the board thinks that six months is less serious in comparison to one year. Maybe the person is a dangerous individual and he is on the street as a result of this parole system.

Miss Clark: That can be a factor in the sense that it is understood on the whole that those who are sentenced to provincial sentences are less serious offenders than those sentenced to the federal system. That is a generalization. I think there is an influence there. That is possible. Whether the perception of the public is correct or not is another issue.

My own personal opinion about the board is that--

Mr. Lupusella: It is also the police perception as well.

Miss Clark: From the board's point of view, we are criticized whatever happens. We are told we give it too easily. Others say we deprive everybody of his rights.

My own feeling about the individual board members is they take the job very seriously. They consider the cases carefully. We are not about to take risks that are harmful. That does not mean we do not make mistakes in the decisions we make, but I think there is a careful attitude on the board to balance the rights of the individual and the protection of the community. That is a difficult balancing act.

Mr. Lupusella: Let me give you an example. Breaking and entering is becoming a cancer in Ontario in relation to the number of incidents. I think all home owners are aware of that and more or less all of them are becoming victims, little by little.

The way our court system operates, the sentence of the court is lenient for this charge. It used to be so with the drinking and driving charge. It was considered a light charge before. Because more emphasis is coming from the Attorney General (Mr. McMurtry) and there is a public revolt, the courts are becoming more serious about this crime.

It is the same with breaking and entering, which might terminate in a violent crime. When someone goes into a person's property, he might kill someone and so on. Do you have any statistical data as to how many people have been charged in a breaking and entering situation and apply for parole? How easy is it to get parole? You are faced with a serious charge even though there is no public perception yet that this is a serious crime.

Miss Clark: I would have to check during lunch hour. I

am not sure we have information on the specific offences they commit.

As chairman I would be aware if they were very serious ones involving violence. There is an extremely small number in that category. I think most of the re-offences are related to theft or false pretences. Those are the major crime types in the province anyway. It is reflected in those reconvictions. I do not have specific data as to the number for each charge.

If I may comment, one of the problems with the board at the moment is it does not have a sophisticated statistical system. It is something we are working on, but it is going to take time. We ourselves would like to be able to analyse that better. I expect that within a year or so we should be able to do that.

Mr. Chairman: Mr. Epp.

Mr. Mancini: Before you go on, I want to clarify a couple of things brought up by Mr. Lupusella, if you do not mind. I did not fully understand what the 23 per cent meant.

11 a.m.

Miss Clark: It means that 23 per cent of those released on parole are revoked. That is, their parole is pulled back and they are sent back to custody.

Mr. Mancini: For serious reasons?

Miss Clark: For breach of parole conditions or a further charge, but primarily for breaches of parole conditions.

Mr. Mancini: What did the four per cent mean?

Miss Clark: That is those who were reconvicted on a further charge. Of the 23 per cent that are revoked, we have four per cent who are reconvicted on further charges and 86 per cent related to parole conditions.

Mr. Epp: Perhaps I can briefly pursue that breach of parole, the 23 per cent revoked because of breach of parole.

Miss Clark: That relates to the parole plan that was presented and accepted by the board in the beginning stage at the first hearing and the conditions that were set at that time at the hearing. They go out under supervision with a parole officer who really has a dual function, one of helping them to get back into the stream of things and make that plan work, and as well to provide some control in relation to those who will not honour that agreement, will not honour the conditions of the parole as they were set out.

I think there is a reasonable period of time in which people are allowed to work at that plan and to get on stream. It is not something the board expects to happen overnight. The other side of that is the board is quite serious about the conditions that are set and, therefore, does have an expectation that they will be

lived up to, worked on, or whatever. The individual who goes out and in a sense forgets any commitments he made and goes on doing what he pleases will come to our attention.

Mr. Epp: In coming to your attention, what is your best source of information in ascertaining whether they have violated parole?

Miss Clark: It would be a number of sources, but primarily the parole supervisor and the police. It is primarily those two, but it can come from relatives of the parolee or other citizens. Anyone can call the board and they do.

Mr. Epp: When a person is on parole, do you get a monthly report on that?

Miss Clark: We get a monthly report that comes back from the parolee and the parole supervisor.

Mr. Epp: Let me look at another area, child molesters. What percentage of people who serve in the institutions are child molesters?

Miss Clark: I do not know.

Mr. Epp: There have been a few cases. I know there was a case in Kitchener-Waterloo a few years ago whereby the community was very upset with the fact this person was permitted back on the streets and so forth. They were afraid he might start watching the school yards for kids, and this and that.

Miss Clark: I do not know the percentage. I know the ministry would likely have a figure on the number who are in for that offence. I do not have a figure myself. The board does not have a blanket policy that says it will not parole people for such an offence.

Mr. Epp: Is it harder to get parole?

Miss Clark: Yes, I think so.

Mr. Epp: Having served one third of the sentence would probably not be honoured as quickly there as it would for maybe a--

Miss Clark: The board would go slowly and would want a great deal of information, more than what would be automatically available to it in those initial stages. My feeling would be if we researched that, we would find the board moving more slowly in those cases.

Mr. Epp: I would certainly hope so.

Miss Clark: One of the difficulties for the board--I know the board that sits at the Ontario Correctional Institute in Brampton would deal with a number of those cases.

One of the factors the board has to weigh is the fact it has jurisdiction to the end of the sentence. That is three thirds of

the sentence. If someone is granted parole, he will serve the entire sentence, the rest of it on the street, as opposed to being discharged at two thirds of the sentence on outright discharge with no supervision.

In those cases, that is a factor the board looks at in the sense it may be able to maintain direction and supervision, some aspect of control over a longer period of time. That does not necessarily swing it in favour, but it is a factor to consider when we are looking at the protection of the community.

Mr. Epp: To what extent do you consult with the local police department? If I had known you were going to be here I would have cut out the article about two years ago when it came up. To what extent do you consult with the local police department before you make a decision in a very important case like that, one of a child molester? I see that as much more important than breaking and entering or something of that nature.

Miss Clark: It is mandatory in the board's process that the board have a report from the police in cases of violence, sexual offences or arson. That is a mandatory requirement. Members must not render a decision on those cases until that material is before them.

Mr. Epp: Do you have any difficulty gaining the co-operation of police forces in getting this information from the sources you usually have to get it from?

Miss Clark: On the whole, it is quite good. When the board first expanded we had a great deal of difficulty, but we have had a lot of meetings with various forces and for the most part it is quite good. When we have trouble with the line staff sergeants, we go right to the chief of police in those cases.

Mr. Watson: Can I ask a question about one point that was raised here, another sort of point? You talked about the one third. When you were answering his question, you mentioned that two thirds was an automatic discharge.

Miss Clark: Yes.

Mr. Watson: I do not know whether you want to take that up now, but I would like to have that clarified.

Mr. Epp: Let us get that clarified.

Miss Clark: That relates to remission. People earn remission during their time. If they earn all that remission, and a great percentage of the inmates do, they can be free on outright discharge at about two thirds of their time.

Mr. Watson: You say most inmates earn their remission. Is your definition of remission good behaviour?

Miss Clark: It is not something we are in charge of. It is legislatively defined and is administered by the ministry. We just know as an impression that a fair percentage of people get

that. I think it is related to reasonable behaviour in institutions.

Mr. Watson: Therefore, with the group you are dealing with, it is the second third of a person's sentence in terms of time?

Miss Clark: That is correct; plus the last third because--

Mr. Watson: Okay, but in applications.

Miss Clark: Yes, that is correct.

Mr. Watson: Leading on to the next one, if a person has not been granted this automatic discharge two thirds of the way through his sentence, what is the likelihood of his being able to get parole in the last third?

Miss Clark: Very little. What happens is it really just runs out. There is no advantage to them at that stage.

Mr. Watson: If their actions are such they have not been granted their discharge two thirds of the way through their sentences, would it not follow that in most cases the parole people would not be happy about letting them out on parole?

Miss Clark: Very likely.

Mr. Epp: I want to get into another area right now, your record-keeping, confidentiality, etc. When you are dealing with a case, what records do you use to inform the board of the individual case? What kind of information do you seek? How is it disseminated to the board members and how is it stored? What is the confidentiality and so forth? Perhaps you would like to relate that to the committee.

Miss Clark: We establish a file on each individual brought to our attention. We brought folders with the basic documents we use in those files. Basically we establish a file and begin to receive information from the institution and from field services who do our community investigation report. Any information the board has had in the past is in that file. We also go to the institution and read the institutional file which may have information that is not in our file. At that time we receive a report from the institution as well as certain statistical data, the fingerprint report from the Royal Canadian Mounted Police that really shows the outline of a person's entire record and the sentences and convictions he got.

11:10 a.m.

Mr. Epp: You would start compiling this immediately after somebody is sentenced because you expect--

Miss Clark: It is immediately they are brought to our attention as being eligible for a hearing. It begins then. In practice, for many individuals the information is already on file. It has to be updated. For others it is new information.

So a partnership of the institutional liaison officer and our administrative assistant begins to co-ordinate the gathering of that information. It relates to clinical reports, if they have been involved with treatment personnel, institutional reports from whatever programs they have been involved in, past supervision reports on probation and parole, pre-sentence reports and sometimes judges' sentencing comments. Those are usually on very unusual cases rather than the routine.

That kind of information is in a board file. It is kept in bar-locked files and is only accessible to board members. It is also used by the institutional liaison officer at the time of the hearing. He is the person who co-ordinates both the preparation for a hearing and the releasing functions that have to go on after the board has made a decision. So there is co-operation between the parole and probation field services and us. They need some of our information to supervise the case and have that access under our supervision. Our files are not given to the ministry or to anyone else, unless they are subpoenaed.

Mr. Lupusella: Is the public participating in this process during the hearing? Let us say there is someone who would like to oppose parole during the hearing. Does he have access to the board to make his case, that he is opposing parole? Do you have such a structure within the power of the board?

Miss Clark: During my time, I do not know if I recall anyone making that request.

Mr. Lupusella: Do you receive letters, for example, from the public opposing parole for a particular person?

Miss Clark: We will receive letters that say, "We are opposed to parole."

Mr. Mancini: After the parole process?

Miss Clark: No, sometimes before and sometimes afterwards. You are quite right, it is more likely to be afterwards because then they know about it. I think the activity, if there is any--and there is not a great deal--would be afterwards because, for example, the victim may not be aware beforehand.

Mr. Epp: Let me go through this then. A person receives a sentence, say, of a year for break and enter or whatever. As a result, three or four months later that person would be eligible for parole?

Miss Clark: Yes.

Mr. Epp: Some time before that, you as the chairman would assign someone to the case to gather the information?

Miss Clark: That is right.

Mr. Epp: The hearing comes up before four months then because a decision would have to be rendered before that. That

information is then put into three or four folders for the board to examine.

Miss Clark: The board goes in prior to the hearing day to read all the information, including our file and the institutional file.

Mr. Epp: The board members could get that information? They could take that information home with them if they wanted to, or would they have to read it there?

Miss Clark: They read it there. We may not take institutional files away. We do take our own, though.

Mr. Epp: What do you mean your own?

Miss Clark: The board file, which is separate from the institutional file.

Mr. Epp: Is your own file based on institutional file information?

Miss Clark: Some of it, yes.

Mr. Epp: But there are some basic documents they cannot either have in their own file or take home with them? Is that what you are saying?

Miss Clark: The board members do not take any files home. If they have our file, it is brought back to our office. It is not taken home.

Mr. Epp: You always have to have your file there, but they can make copies of your file?

Miss Clark: They can make notes or whatever. We do not encourage the board members to have any document in their private homes. It is on our file. They have their notes and they destroy those notes after a period of time. Actually, to my knowledge, they do not even go so far as to make notes to take home. It is done in the file on what is called a reading note form.

Mr. Lupusella: If a second offence is committed, do the police have access to the gathered information file you have prepared?

Miss Clark: The police do not have access to our files. They may call us for information and we do share relevant information if there is a problem.

Mr. Epp: Then you assign someone to be chairman of the group that is going to hear that particular case and other cases at that time?

Miss Clark: That is right.

Mr. Epp: The group then makes a determination of whether or not the person is eligible for parole?

Miss Clark: That is correct.

Mr. Epp: The information you have there is a report from the institution itself and a report from the local police?

Miss Clark: Not in all cases. We certainly do on the cases I outlined. Normally, in the community investigation report a statement is made about the police position on parole. It is part of the community investigator's role. So there will be a statement in the community investigation report.

Mr. Epp: You might have letters of support or something from other people?

Miss Clark: That is right.

Mr. Epp: People who want to receive parole might get something from their minister or priest?

Miss Clark: That is correct.

Mr. Epp: Then a determination is made and the person is notified, I guess. There is nobody else at that hearing, except the panel that conducts hearings?

Miss Clark: There could be others present. There could be a lawyer present if the inmate has chosen to have someone speak for him. There could be a staff member if the inmate has asked for a statement on his behalf in regard to programs or plans or whatever. There have been relatives at times. By and large, it has been the individual with the board on his own. Probably the greatest percentage of cases are that way.

Mr. Epp: The individual is there?

Miss Clark: Yes. He leaves the hearing after we have had a dialogue with him. The board discusses the case, arrives at a decision, writes out a decision and it is given to him both verbally and in writing at the time of the hearing. So he leaves the hearing knowing what the decision is.

Mr. Epp: Just a moment. You lost me somewhere there. He is at the hearing, but then he leaves?

Miss Clark: Yes. He just steps out while the board discusses the case.

Mr. Epp: Then you people discuss the case, quickly write your decision and when he comes back in, you give it to him?

Miss Clark: That is correct.

Mr. Epp: Do you have a lot of computerization?

Miss Clark: We should, but no, we do not.

Mr. Epp: You have asked for it, but they have not given it to you?

Miss Clark: Yes.

Mr. Epp: So there is very little computerization?

Miss Clark: That is correct.

Mr. Epp: When you are making a decision on parole, on a case and so forth, do you keep an eye on the statistics in other provinces and other countries? Do you say, for instance: "In Canada or Ontario we parole 50 per cent of our cases after four months and 60 per cent of our cases after six months. In Sweden they do this, in Norway they do this and in Britain they do this," and so forth down the line? Do you get an average? Does that have a bearing on the way you determine the percentage of cases in Ontario?

Miss Clark: No. I think the National Parole Board may have some capacity to do that kind of analysis. We do not, other than what we might get through journals and through our meetings with the Canadian Association of Paroling Authorities, at which we do share information in a general way. But we do not have a system sophisticated enough to bring out those factors.

Mr. Epp: What about keeping an eye on the availability of space in institutions? Is that brought to your attention?

Miss Clark: There is a daily count report and a community resource centre report that comes into the board, so we do see those statistics.

Mr. Epp: You obviously have to keep in mind whether there is or is not space.

Miss Clark: Quite frankly, we do not. Let me put it this way. The matter of overcrowding is an issue for the ministry, not for the board. Our position has been that if the Legislature or the minister wishes to make a special requirement of the board that it change its criteria because of that, then we have said, "Let them do it." Until then, we will not consider that as a criterion for release.

Mr. Epp: So, as far as you are concerned, those figures have no bearing on your decisions?

Miss Clark: That is correct.

11:20 a.m.

Mr. Mancini: First of all, I would like to say I think our job is made somewhat more difficult because we do not have the statistical breakdowns some of the members have been asking for. Mr. Lupusella, Mr. Epp and others were asking for statistics on individuals who had abused their parole conditions or on individuals who had been reconvicted and for what type of offences. I think that kind of information would lead to a very

interesting discussion here. Unfortunately, we do not have it.

That being the case, I have to concur with some of my colleagues who believe there is a perception among the public that in many instances the parole board could be and maybe has been lenient with certain individuals, particularly those who have been involved in crimes of physical abuse of women or children, or in breaking and entering, when a home is entered by an individual other than the owner for purposes of destroying or robbing. It is almost as if the person's body has been violated, as you know if you ever talk to some of the victims of breaking and entering. I for one am not anxious to give easy parole to people who abuse babies or women or who are involved in any type of crime in which they have committed bodily harm or done physical damage to individuals.

Since we do not have that information, I guess the best we can do is to put on the record individually how we feel about it. I would be very concerned with the parole board granting easy parole to any individuals in such cases. Mr. Epp brought up the case in his own particular area, and I have had information brought to my attention in the region of the province I represent, where we have been quite disappointed in the length of the sentences allotted by the judge and in the length of the sentences actually served. I do not know. Maybe we should bring these cases up individually in the Legislature when we get them; that way the parole board would get a better understanding of how the public feels about these things.

That is not a question; it is a statement. As a member of the Legislature, I thought you might be interested.

Miss Clark: I would like to respond, if I may.

Mr. Mancini: Sure, go ahead.

Miss Clark: Perhaps the only way I can defend the board on any accusation that it is too easy about parole is to comment that two out of three of the quorum of the board are members from the community. They are selected from the community and they add that voice to it, and you can be very sure they express the kinds of views you are enunciating.

Mr. Mancini: Now that you have brought that up, there was--

Miss Clark: May I just comment that the board does not retry a case. If the sentencing is light in the beginning, it is not necessary for the board to correct that. On the other hand, the board is mindful of the total record of a person, so if the sentence is light but we are sitting there with what I call the FPS report--the fingerprint summary--with a long string of offences, we certainly take that into account. Perhaps the only thing I can say to you is that you might want to sit in on a hearing date of the board at one of the institutions.

Mr. Mancini: It might be a very interesting and good idea. I would not mind taking you up on that.

Concerning the matter of appointments to the board, our researcher's report raised in two or three areas how individuals were appointed. Some concern was mentioned about the screening process and whether or not all appointees had been screened by the chairperson. I was wondering if you could inform us of that.

Miss Clark: I would like to comment on that because the statement in that report does not quite reflect the total picture. I think the impression in the report is that there are more who do not go through that process than do. The matter of appointments is in the hands of the minister and it is for him to decide what that process is going to be. At this time, the agreement is I will see all the candidates. In the last round of appointments in September, I think it was, I did see all but two or three and those were subsequent to the process at my end.

Mr. Lupusella: How long do the appointments last?

Miss Clark: Normally a person is appointed for one year as a new member and then can be reappointed for a two- or three-year term up to six years.

Mr. Lupusella: Are they on salary?

Miss Clark: Per diem.

Mr. Lupusella: How much?

Miss Clark: It is \$85 per day. They are paid when they sit at a hearing.

Mr. Lupusella: Sorry, Mr. Mancini.

Mr. Mancini: No problem. It is good information.

Miss Clark: If I may comment on that process, it was instituted when I raised the issue with the minister that I was concerned because candidates did not know what they were getting into as far as the job on the parole board was concerned. So there is a fair amount of effort made at that stage to inform them of what the work is, their role, the kind of job they will be coping with. There are people who withdraw at that stage of their own volition.

Mr. Mancini: I have no illusion as to how people are appointed. They are appointed at pleasure by the present government and we know what some of the major prerequisites are. Having said that, we certainly want qualified people in such a sensitive area.

As a full-time chairman involved with the work of the parole board on an ongoing basis, you certainly should be able to have some input with the minister as to who should be appointed and who should not. If he has promised his campaign manager he is going to appoint someone, I know he will be appointed whether you like it or not, but at least you should have a chat with the person anyway before he starts the job.

We touched on the area of violent crime and we left that matter lying because of statistics. I think I may take you up on your offer to attend a hearing. We touched on the area of appointments and I guess that is a grey area. If you as chairman are fairly satisfied with the people appointed to the board, that is fine because ultimately you are responsible for their decisions.

Miss Clark: I am very frank in my comments to the minister.

Mr. Mancini: I might send you a recommendation myself, and we will see what happens.

Miss Clark: You will have to consult with the minister rather than me.

Just as a general comment, I do think there is a recognition that the work is very serious and it would be to everyone's disadvantage to make the wrong appointment.

Mr. Mancini: Right. There is another issue I wanted to touch on that was dealt with briefly by one of the other members. That is the issue of overcrowding. You stated the parole board makes its decision on the information presented to the members and overcrowding is not a factor. It was mentioned in a couple of parts of the researcher's report that the parole board in Ontario is greatly influenced by the ministry because of the way you are funded. John, what were a couple of the other areas? You felt the parole board was influenced because of funding and because of--

Mr. Eichmanis: I think the issue is to clarify what the relationship between the ministry and the parole board is, given the fact that there is this close relationship on the administrative and financial level.

Mr. Mancini: You felt it was not the same in other provinces, I believe.

11:30 a.m.

Mr. Eichmanis: This is one of the questions we would like the parole board to discuss with the committee.

Mr. Mancini: That being the case, could not the ministry by way of the power it holds in that area influence the board, maybe not openly but subtly, to consider the matter of overcrowding?

Miss Clark: As a matter of fact, I think the overcrowding situation, if anything, has an influence in delaying the board process. One of the problems for the board is that it came into its expanded state during the time of restraint. If there is an area of difficulty between the board and the ministry, it is in the area of how resources do get allotted and how efficiently, quickly or fully the information is made available to the board.

At the time it was expanded, the prediction was that we would have a case contact volume of 4,000 at the front end. We were over 5,000 even in the first year, and it has gone onward from there, without the matching funds to deal with the work load, not only at our level but in the institutions and at the field services level. Our problem with the ministry is that we could be more efficient in our process if it was able to improve certain areas, particularly information gathering and dissemination. That would make our job easier.

Mr. Mancini: How is the ministry deficient in its information gathering and dissemination?

Miss Clark: The ministry has a task force that is working on this right now. One example is that it does not have a single file on a single inmate, so that when you want to get the whole picture, you are having to look at where the inmate has been and try to get the sources of information. The ministry does not have as efficient a bring-forward system as is necessary and it recognizes that. I am not saying that is something of which it has no knowledge. The ministry recognizes that as a problem, and it does have a relationship to what the ministry can do generally in the area of technology and co-ordination of the information.

From our point of view, it is difficult for us to keep our process going sometimes, and so we will get a higher rate of deferred cases, for example, where the board is not able to proceed because it does not have the information before it. I think the only indirect influence on overcrowding may be that in those circumstances there may be fewer program opportunities for people in various institutions. That may have some bearing on the decision-making.

Mr. Mancini: Of course, we do not want to assume automatically that if the ministry was more efficient and more organized, that would lead to faster paroles.

Miss Clark: Not faster.

Mr. Mancini: Or to quicker paroles, because the circumstances of the cases might not allow the parole board to make those decisions.

Miss Clark: It just refers to the board administering the legislative requirements fairly.

Mr. Mancini: I would like to know how many parolees are assigned to any one particular parole officer and what you expect of that parole officer.

Miss Clark: I think it varies in different places and I am not sure of the specifics because there are different styles of management in different areas. We have teams and individuals and so on.

Mr. Lefebvre, is this in the area of 40?

Mr. Lefebvre: Of parolees? Probably around 40.

Miss Clark: About that. The parole and probation field services of the ministry administer the supervision and there is dialogue between us at a policy level about that, but the field services direct their workers in the field on the matter of supervision.

Mr. Mancini: So the ministry sets up this criterion of 40 parolees per one parole officer?

Miss Clark: That is an approximate figure, yes.

Mr. Mancini: Is that working in a satisfactory manner? Is that too many or not enough?

Miss Clark: The probation and parole services also run the probation system. I think they have something like 40,000 on probation in a year and 4,000 on parole in a year. Those are approximate figures. They always feel they do not have sufficient resources.

Mr. Mancini: I want to get back for a moment to the temporary absence program as compared to the parole program. What is the logic in having the ministry grant a temporary absence when that seems to me to be almost the equivalent of parole? What is the logic in having the ministry do that and not having the parole board do it, when the basic issue is whether the person should be out on the street, whether for one hour, six hours, eight hours or 24 hours? The person can do just as much damage in the community during a 24-hour period or an eight-hour period or can adequately reintegrate back into the community. What is the logic behind that?

Miss Clark: I did not make the law. It is the law in Ontario.

Mr. Mancini: Right. What is the logic behind it?

Miss Clark: I would like to ask you that.

Mr. Watson: That is a pretty good answer.

Mr. Mancini: That is a very good answer because we know who is in charge.

Miss Clark: It is done differently in some jurisdictions. If you look across Canada, there are varying patterns.

Mr. Mancini: What seems to be the logic to you?

Miss Clark: There is a slight fight going on between ourselves and the ministry.

Mr. Mancini: I am willing to give that responsibility to the parole board, which I think should have that responsibility. If there is some outstanding reason why this debate should not be

carried on, then we are willing to listen and may agree on whatever the outstanding issues are. If we cannot have your opinion on it, then it is quite difficult. Let me ask it this way: In your opinion, would it be better for the parole board at least to have a say in the temporary absence program or take over the responsibility of the program?

Miss Clark: There are members of the board who feel that way. I think the distinction between the temporary absence program and parole is the short-term nature of the temporary absence. You are taking risks in either program. In the temporary absence program there is no commitment to long-term time on the street, which is what the parole board makes a judgement about.

You are quite right that in certain circumstances the same thing could happen in either program. For example, the temporary absence program is partly used to place people in communities resource centres rather than the maximum security placement of the prison institution. They are designated as correctional centres, and the mechanism for doing that is through the temporary absence program.

Mr. Mancini: I do not quite follow that. Can you give me that again, please?

Miss Clark: I will pass it to Mr. Lefebvre and take a breather.

Mr. Breaugh: Most of the criminals I know are in the Senate.

Mr. Lefebvre: To give Miss Clark a chance to have a breather, I will expand a little bit on the use of what we call community resource centres or CRCs. Probably the basic distinction between parole and temporary absence is that temporary absence is normally from one to five days, very short term, and it is normally for specific reasons, such as employment purposes. It could be for humanitarian reasons, to attend a funeral or whatever. It is a temporary absence from the institution.

11:40 a.m.

In some situations where, let us say, employment is the main factor, in order to maintain employment it would be beneficial for that inmate to reside in a community residential program rather than in the institution. Then that inmate can apply for temporary absence and, if given temporary absence, could reside at a community resource centre, which would be a community residential type of system, living within that community resource centre and then going to work and coming back to that community resource centre at night instead of going back to the local jail or local institution.

Mr. Mancini: I do not dispute all that; I think it is all good stuff. But the basic question then returns to why someone other than the parole board would make that decision. It does not matter how far you stretch it. Temporary absence is in one way or

another parole, and when you allow people to be back in the community before they finish their sentences, that is parole. "Temporary absence" is a term used for a different type of parole, I guess.

I would feel much more comfortable if the parole board were to handle these things because that is the work you are doing. Now we have people, I guess, in the ministry who make these decisions. They are civil servants, I would assume; they are not appointees. If an appointee is carrying out his responsibilities in a manner that is not appropriate, you can ask for a resignation. If it is a civil servant, you have to give that person three years' salary and hope he does not sue after you have asked for a resignation.

The whole structure of the system is much different and does not, in my view, lead to the type of system we would want operating. To have two systems working separate and apart from each other and doing the same thing is also, in my view, quite confusing--not personally, but to the general public and as to the policy the government wishes to carry forward. The chairman stated that there is a debate going on at the present time.

Miss Clark: From time to time there is a debate between the board and the ministry on the parameters of temporary absence. We would raise questions very seriously with the ministry if they extended the use of temporary absence through what is called a back-to-back use of TA. That is a kind of renewal of those short day absences into a running series of absences that, in effect, amounts to almost a full release. In fact, we have raised this issue with the ministry and have said that we think it is overstepping the mandate and undermining the mandate of parole.

Mr. Mancini: But legally they are on solid ground?

Miss Clark: There are some technicalities that allow them some leeway in doing that kind of thing, yes.

Mr. Chairman: Mr. Lupusella, just one moment. It is my understanding that the part-time members serving on the board serve from two to 12 days per month. Would those be full working days?

Miss Clark: It can vary. If you are in an area of the province where there is a small jail, you may do two days a month. Probably Sudbury or Whitby is an example of that, although Whitby's numbers go up and down. If you are in a larger area where, say, Guelph Correctional Centre is or in the Metro area here where all the detention centres are, the work load for members is higher.

Mr. Chairman: What is the typical occupation of a person who could take on a 10-day or 12-day part-time job, which is really half of the working month?

Miss Clark: We have a slide here that might be useful and give you some breakdown on the backgrounds of members. I think a fair proportion of the people are not working; they are retired

or are women who are at home and not carrying on professional jobs or are carrying on part-time jobs, that sort of thing. Then we have others who are employed full-time in professions that allow them some leeway.

Mr. Epp: Do they have to be in the Progressive Conservative Party?

Miss Clark: I do not know.

Mr. Breaugh: Well, I know.

Miss Clark: There are things that happen after I see them.

Mr. Breaugh: If you are in doubt, we will straighten you out.

Mr. Epp: I did not want to embarrass the chairman by having him ask it, so I wanted to ask it myself.

Mr. Chairman: The chairman did not ask that. That was not a favour.

Do you have that slide? Will it help us on the background?

Miss Clark: It will give you some idea.

Mr. Eichmanis: When you say "police" there--

Miss Clark: Lawyers. We only have four lawyers.

Mr. Lupusella: I do not see psychologists or psychiatrists. How come? Is there any particular reason?

Mr. Watson: That is the second line. The first line on that group is businesses.

Miss Clark: The lines have run together there. There are 28 there for business.

Mr. Eichmanis: When you say "police" there, presumably that is retired police officers?

Miss Clark: Yes, or who have some police work in their background. We have two former police chiefs. Others, I think, have worked as policemen.

Mr. Eichmanis: But you would not have somebody who was currently a police officer? Otherwise, there is a conflict of interest.

Miss Clark: No, there is a conflict of interest there.

Mr. Lupusella: Is there any particular reason why you do not have any psychologists and psychiatrists?

Miss Clark: Most of that input comes through the professional reports given to the board on inmates. At that level, there is a major involvement by people of that training.

There is no particular reason. In other words, when I see a candidate, that candidate has come through heaven knows what sources. We do not go recruiting. Whoever is sent for our attention is the person whom we see.

Mr. Lupusella: Do you not think it should be essential for a psychologist or psychiatrist to be involved, especially at the pre-hearing when you compile data about an individual who is applying for parole? A psychologist or a psychiatrist may have a good idea about the individual's behaviour from the time when he was sentenced to three or four months later. Do you not think that should be essential?

Miss Clark: We have access to that kind of input.

Mr. Lupusella: Are you referring the individual to a psychologist or a psychiatrist before the hearing actually takes place?

Miss Clark: Yes, we have.

Mr. Lupusella: Is it someone who is working on your staff?

Miss Clark: We may get a case, for example, with no professional report on file. We can request that person to be seen by a psychiatrist of the ministry.

Mr. Lupusella: How often do you request that?

Miss Clark: In most cases, that kind of person is already in the treatment institute in Brampton, so we do have those reports. We have the psychiatrist's report.

Mr. Lupusella: What about in other centres?

Miss Clark: Most institutions have professional staff available. Where they do not, we ask for someone to come in.

Mr. Lupusella: Why is there no psychiatrist or psychologist sitting on the board? While you appoint three people from the community, a psychologist might be more important to the course of the hearing to understand what is going on.

Miss Clark: I do not do the recruitment for the members who are appointed.

Mr. Lupusella: Who does it?

11:50 a.m.

Miss Clark: It comes from various directions. There is not a mandate given to the board to recruit members. For example, the next round of appointments will be next fall. There are already all kinds of applications on file. These have come through members of Parliament, through our own members, through the ministry personnel. They write themselves.

Mr. Lupusella: I think I have the floor, Mr. Chairman, or do you want to proceed with your questions?

Mr. Chairman: No.

Mr. Lupusella: As far as you are concerned, how independent is the board? If it is in the hands of so many appointees, with no particular control of the board by itself, how independent is the board?

Miss Clark: I can speak to the quality of the members I have.

Mr. Lupusella: You have been a little bit ambiguous, with respect. You have been defending the board, you have been stating that you have some sort of independence in relation to the decision-making process of the ministry; you were also quite defensive of the board when you stated that it is not as easy as the public perceives to get parole, when in fact we have notification through the questions Mr. Mancini raised that this is not the case.

Miss Clark: In the actual decision-making process of the board in that hearing the three people present for the hearing make the decision and no one else has input, other than through the reports that are submitted. If someone submits a dishonest report and the board is unaware of it, it is possible for someone to trick us.

Mr. Lupusella: Are you telling us that the decision taken by the board is based only on the merits of the case and is not extremely or particularly influenced by the decision-making process of the ministry?

Miss Clark: Yes, I am saying that.

Mr. Lupusella: In 1978-79--and I hope you have some statistical data to substantiate this--when the direction of the Minister of Correctional Services changed and Mr. Drea wanted inmates to work in the community, are you saying the board was more stringent in giving out parole or more lenient as a result of his policy change? Do you have any statistical data on how many paroles were granted in the year 1978-79, when he was minister, in comparison to the paroles given for the year 1983-84? How can you say the board is independent and is not influenced by the decision-making process of the minister?

Miss Clark: All I can say to you is that I became chairman in January 1980 and I can answer only for that. I am not aware of the policy you are talking about.

Mr. Lupusella: You remember when the minister changed direction, stating that he wanted inmates working in the community. I am sure the parole system was influenced by this decision-making process on granting paroles.

Miss Clark: No, that is done through temporary absence. The work program in the community, those work gangs that go on, is a ministry program decided through temporary absence; it is not within the prerogative of the board.

Mr. Lupusella: Can we get statistical data on how many paroles have been granted so we can compare them to the fiscal years 1983-84 and 1981-82 to find out if what you are saying is true?

Miss Clark: If it is not on a slide here, we will see.

Mr. Sheppard: Mr. Chairman, while they are waiting to get that information, I would like to say that I have never been asked to submit any names and I have never submitted any names. The opposition over there is accusing me of bringing in names. I have never brought anything in and I have never been asked to bring in any names.

Mr. Breaugh: You are a little further back in the benches than we thought, Howard.

Miss Clark: They come from all directions.

Mr. Epp: I could submit some names myself, you know. You give as much emphasis to names submitted from the opposition as you would from the government, would you not?

Miss Clark: As far as I am concerned, yes.

Mr. Epp: But you have no say about it.

Miss Clark: I do not have a say in the final thing. My bottom line is that when I see people I tell them what the job is, I do not fool them about what they are getting into and I form an impression as to whether I think they can do the job. That is a statement I make to the minister. If he takes it or if he does not, it moves on into the machinery that I am not part of. But I can say to you the present members are doing a good job.

Mr. Epp: Can I just ask another question? Why is English not a requirement of being there? I see French, native, Italian, Dutch and German.

Miss Clark: Everybody speaks English.

Mr. Epp: Everybody speaks English. Oh, those are the extras. I just wondered why English was so obviously absent.

Mr. Sheppard: Mr. Chairman, I would like to ask if Miss Clark is enjoying her job.

Miss Clark: Yes I enjoy the job. It is a tough job.

Mr. Sheppard: You look as though you can handle it.

Miss Clark: Yes. There are a few more points I would like to win with the ministry and we are working on it.

Mr. Sheppard: Have you deported anybody or recommended anybody be deported through your parole board?

Miss Clark: Yes. It is a very small number. They may have what is called a "hold for deportation." In order for us to deal with parole, we have to have their status decided, and that is settled by the immigration department. We then deal with it as we would any other case. We would not parole someone who we do not think is a good bet. They would stay and do their time, but if they are eligible and look like a good candidate, then we would.

Mr. Sheppard: If you were to recommend deporting somebody, would you have to confirm it with the federal government?

Miss Clark: No, we simply notify them we have authorized parole for deportation and they can arrange transportation for that person. Historically, there was a practice within the board to almost automatically grant that kind of parole, primarily as a tax-saving practice, but that has ceased for the last five years or so.

Mr. Sheppard: How many years were you on the board before you became chairman?

Miss Clark: I was appointed to the board in the fall of 1978 and was vice-chairman of the western region until an acting appointment in August 1979 and an appointment in January 1980.

Mr. Sheppard: Okay, fine. Thank you, Mr. Chairman.

Mr. Chairman: Perhaps since you were not able to find the statistical data Mr. Lupusella wanted, you could get some information over the lunch hour for him on that.

Miss Clark: We will try.

Mr. Chairman: Yes, Mr. Watson?

Mr. Watson: I am wondering, in terms of the parole, who has the most discretion? There are people who go out and break their conditions of parole. Is the discretion about a parole violation with the parole officer or is it with the board? I guess it is difficult to answer in terms of saying how serious a violation has to be before parole is cancelled. You may not be able to answer that specifically. Do you have any general comments?

Miss Clark: It is the board that must authorize what is called a warrant of suspension or warrant of arrest. I am not sure of the exact title, but it is the board that authorizes the warrant when a violation has occurred, so it is the board's judgement about the violation. It is for the board to move it to

the stage of saying: "We want to relook at this case. The man is to be arrested and placed in custody until we can do so."

An individual parole supervisor may not exercise that authority on his own. What happens is they pick up the phone and talk with us about the case. It is more than likely they have talked to us about it before and it is a judgement on the part of the vice-chairman or the full-time member in the office at the time to decide whether it has reached the point of suspending parole.

At that point, if there is a decision that they are uneasy about the direction of the case and the behaviour of the parolee and they wish to review the case, then there is a hearing.

Mr. Watson: I guess I am asking how much discretion does a parole officer have? You are not going to cancel somebody's parole because they are 10 minutes late for something some day.

Miss Clark: No. The monthly report I mentioned before that comes in month after month, is really used as a backdrop to judge the kind of crisis call you have coming in. Sometimes you get parole supervisors who are prepared to put up with too much and work too long and you have others who are prepared to yank the rope at 10 minutes lateness, so it is really the board's judgement in those situations that determines the action of the rest.

12 noon

Mr. Watson: When a person is granted parole, who is informed? What is the administrative process that goes forth from your office? I am thinking in terms of police agencies and community agencies. What are the lines of communication from a decision that is made by your board?

Miss Clark: There is a notice of release form that goes out. The notice is sent to the chief constable of the area where the person is going, to the Royal Canadian Mounted Police Ottawa identification branch, which has a link with the Canadian Police Information Centre and the telecommunications branch of the Ontario Provincial Police. There is an interrelationship of the police forces to the parole and probation officer. Of course, the institution is also aware and the inmate is aware, but the notice is circulated basically to all the police authorities.

Mr. Watson: The courts are not notified?

Miss Clark: No.

Mr. Watson: When they sentence, that is goodbye?

Miss Clark: Yes, unless they forward a statement of reasons for sentencing. We find it is not an automatic matter. In fact, there are a couple of pilot projects going on in London and Sarnia, or somewhere in the eastern region. They are experimenting with an automatic forwarding of the reasons for sentencing by judges on all cases. They are trying to decipher whether that is a useful process. That is happening from the courts to the institutions, and we see that later on.

By and large, it is not a routine practice of judges. Normally what happens is they will send us a report if they find a case of particular concern to them one way or another. For example, a judge might comment that he feels someone ought to be considered for a temporary absence and/or parole as quickly as possible.

They make other comments related to serious cases. A judge may say, "I would like to have sentenced this person to the federal system, but I have given him the maximum provincial sentence plus a long term of probation, because I feel that is one of the safest places for him to be and the place where he may get more individual attention." He is recommending that parole not be considered at all. We get quite a spectrum of comment from judges, but it tends to be on very special cases.

Mr. Watson: One of the other points I wanted to cover --and you mentioned it a few minutes ago when you said you do not retry somebody--was the impression I got that you do not retry somebody, but. You obviously run into situations where the board thinks the sentence was not appropriate to the crime, which is not retrying somebody, but.

Miss Clark: We tell members, while they have their personal opinions, it is not their role to judge a case again. That is the role of the court. The credibility of parole would be damaged if we usurped that role. If that were tried under the Charter of Rights, I suspect the board would be found in error if it did that.

As a general practice, it is not for us to question a sentence. We certainly will look at the offence in quite some detail. For example, if a violent offence comes in under a short sentence, we will pay attention to the nature of that offence. We feel we have a right to do that, regardless of what the sentence is. There are other factors that determine the board's position, but by and large we do not look at a case and say, "Gee whiz, this guy should have got more, or he should have got less." I think we are getting out of our--

Mr. Watson: It must be frustrating sometimes for board members who have personal biases one way or another, and we all have biases, to be able to separate those out.

Miss Clark: It is. It requires a fair amount of discipline.

Mr. Watson: In terms of the administration of different regions, you have a western region and west central region. Specifically what is in the western region? What area does it cover?

Miss Clark: The three largest centres the western region deals with are Guelph Correctional Centre, Burtch Correctional Correctional Centre and the Elgin-Middlesex Detention Centre. Then there is a web of small jails that feed into those. For example, Owen Sound, Walkerton and Stratford all bring their cases in to Guelph Correctional Centre for board hearings.

If the count goes up in a small jail to the extent that it is not feasible for them to transport people, then the board will go and do a hearing in that small jail. If we take just the western region as an example, they have the Ontario Correctional Institute at Brampton, Burtch Correctional Centre, Chatham Jail, Elgin-Middlesex Detention Centre, Guelph Correctional Centre, Owen Sound Jail, Sarnia Jail, Stratford Jail, Walkerton Jail, Waterloo Detention Centre, Wellington Detention Centre and Windsor Jail.

Mr. Watson: But in the majority of those cases the persons from those jails would be transported?

Miss Clark: The main centres are Elgin-Middlesex, Burtch and Guelph CC. I think at the moment the Windsor count has gone up high enough that the board intends to do regular hearings there.

Mr. Watson: I was interested in your mix of men and women on the board. In some of those areas, for instance, there are more women than men on the board. Is that typical or is that just the one I am looking at?

Miss Clark: I would have to look that up. The last count I had was 48 men and 40 women.

Mr. Watson: What is the male-to-female ratio of the people you deal with?

Miss Clark: It is almost an entirely male population and a very small percentage of women. I am not sure of the exact percentage, but it is probably seven per cent or so.

Mr. Watson: But that is the population you are dealing with rather than whether they are or are not eligible for parole.

Mr. Chairman: What is the wish of the committee? Should we knock off now and reconvene at two o'clock? Mr. Breaugh, I have you next on the list.

Interjection.

Mr. Chairman: Fine. We will adjourn now, reconvene at two o'clock and lead off with Mr. Breaugh.

The committee recessed at 12:07 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
ONTARIO BOARD OF PAROLE

TUESDAY, FEBRUARY 14, 1984

Afternoon sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Hennessy, M. (Fort William PC)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Lupusella, A. (Dovercourt NDP)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Sheppard, H. N. (Northumberland PC)

Clerk: White, G.

Staff:

Eichmanis, J., Researcher, Legislative Library
Kilpatrick, M., Researcher, Legislative Library

From the Ministry of Correctional Services:

Clark, D. M., Chairman, Ontario Board of Parole
Lefebvre, J. A., Executive Vice-Chairman, Ontario Board of Parole

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Tuesday, February 14, 1984

The committee resumed at 2:09 p.m. in room 228.

ONTARIO BOARD OF PAROLE
(continued)

Mr. Chairman: I see a quorum. We will carry on.

Mr. Breaugh: Mr. Chairman, I want to raise a couple of basic problems I have with the work you do. The biggest single one was addressed by your statement which is included here. It is the relationship between the Ontario Board of Parole and the ministry.

I can understand from a very pragmatic point of view how this situation came about, but it seems to me it is fundamentally wrong to have an agency like a parole board as part of a ministry.

I know you took the time to reply to what I think was a questionnaire put by John, and I know you have defended the board's capacity to act independently on decisions. But it seems to me it is a basic fault in the process to have a parole board so much a part of the ministry.

With other agencies we have looked at where there is a ministry that, for example, instigated a regulatory agency, they go to great lengths to say: "There is an arm's-length approach. We may have some funding and have some participation with this agency, but because it is regulatory in nature it has to be apart from the ministry."

It seems to me that flaw, which is sometimes awkward in other instances, is intolerable in this instance. Although it is not quite a court, it certainly has to do with the judicial system. To use a perhaps unfair analogy, I think we would all be outraged if somebody said the Attorney General's office runs the courts in a direct way, that the courts are all part of his ministry and that is acceptable. That would clearly not be acceptable.

I have the same feelings about the parole board. It ought to be distinct from the ministry in a number of ways. As a matter of fact, as we went through the research here, it seemed to me that in almost every way conceivable you are part of the ministry. I want to know what problems that creates for you.

Set aside, if you can, that I can accept that the boards in their decisions are independent, free and all that kind of stuff. I think there are some severe practical problems in the work you do by being integrated so tightly with the ministry.

Miss Clark: There are some difficult problems administratively speaking. For some of the reasons you enunciated,

it is probably the most difficult job I have had administratively. It is a very delicate relationship when you are totally dependent on a ministry for the resources that make your operation work. You are under some compulsion about the relationships you follow and maintain to get the work done.

We are particularly aware of our situation, because it is quite unique in Canada. In the other provinces, the boards of parole are at least on an equal footing with the major components of the justice system, the police, the judges, whatever. I think we are unique in the structure of government in this province that the parole board is where it is.

I think I have a fair assessment of the other boards. They are on an equal footing with, say, the National Parole Board's relationship with Correctional Service of Canada and so on. They do not have a division as we do of the Attorney General and the Ministry of Correctional Services in separate ministries and the board within one or the other of certain major actors in that system.

I think the problem for the board has been to try to maintain that arm's-length relationship with the ministry, viewing itself as a separate component in the justice system. I think I am fair in saying the ministry sees us as part of a program continuum in the ministry. We do have differences of opinion in that regard.

We have had discussions about that, as to how we can overcome some of the difficulties. I think the ministry sometimes accuses the board of wanting to be independent and therefore not accountable. We have tried to be very clear that we are probably more accountable within the ministry than any other division of the ministry.

It has been a difficult thing to work with and there are no easy answers as long as we are within the ministry. We have had some debate about the chairman being part of what they call senior management committee and the executive policy committee. For a long time we have maintained we ought not to be a member of those committees, that if we were we would be seen by the other major actors in the system, including the community, as too closely involved in the ministry.

In fact, I recently joined those committees because it seemed to be the only way to get input into what goes on at the top level, to get a hearing of the issues that relate to the kinds of problems we are dealing with and to have a better input into what happens financially.

I think we might be able to show you some overheads that illustrate some of the difficulties in where we are seen to be placed in the ministry structurally and where we seem to be in actual operation and actually having to do the day-to-day dealings. If you would care to have a look at that, it might be helpful.

Mr. Breaugh: Yes, I would be interested in seeing that material.

Miss Clark: I might add that the ministry is aware of this problem. I do not think anyone has any clear solutions to it.

Mr. Breaugh: Is it unfair to say that you are totally dependent on the ministry?

Miss Clark: We certainly are for getting our work done.

Mr. Breaugh: So every time you turn around to do something--

Miss Clark: Every part of it, except when we sit down in a hearing and get going with the actual job.

Mr. Breaugh: But all the information you use comes from the ministry.

Miss Clark: That is right.

Mr. Breaugh: In all of the budgetary considerations you have you are dependent on the ministry.

Miss Clark: Yes.

Mr. Breaugh: Is it fair to say that even in personnel terms you are dependent on the ministry?

Miss Clark: Yes.

This is just the basic upper structure, which shows where we are on the administrative chart. If you want to look at where we have to negotiate for a few major things like expenditures, resources and, indeed, the whole field support side--the parole and probation, services related to co-ordination of information and ultimately parole supervision--then--

Mr. Lefebvre: I do not have a mike, but for all these items, for our normal operational procedures, we are linked to the executive director of community programs, and there are four other branches within community programs. So for simple things like preparing our estimates, resources allocation, expenditure analysis--all these types of items in a normal ongoing operation--it is communicated and co-ordinated through the executive director of community programs, who also has four other branches, as we see here. There is staff training, community resource centres, probation and parole.

For example, if an allocation is made to the community programs division of, say, a complement of 21, then the board has to fight for its resources through the executive director against all these other branches for the resources we need to run our board.

Mr. Epp: You really are down on the totem pole, are you not?

Mr. Lefebvre: Exactly.

Mr. Breaugh: Do you know if anyone has ever challenged the position the parole board is in in a legal sense?

Miss Clark: No. The only question that has come to us has come from other boards. Other parole boards look at us with some degree of question and wonder how we manage in this kind of structure.

Mr. Breaugh: It does seem to me that at some point someone is going to put forward a legal challenge as to whether a parole board can be so thoroughly integrated into a ministry. It strikes me as odd, frankly, that it has not happened.

Mr. Lefebvre: These are the vote and item submissions within the community programs division and, as you see, we are item 3 under the vote for the community programs division. So although we have a separate vote and item, we still have to negotiate within this total division for all our resources.

2:20 p.m.

Miss Clark: This matter has been discussed and, in fact, we requested that there be a change in the structure, particularly with regard to the vote, so we have an independent vote. I understand that was recently turned down by Management Board with the request that the ministry look at how it might do that internally.

What is now being discussed is the board being moved to the office of the deputy and that vote.

Mr. Breaugh: But still within the ministry?

Miss Clark: Still within the ministry. From our point of view that is a better internal structure. If we are going to be in a ministry that is certainly a better setup for us. But it does not address the issue you are--

Mr. Breaugh: It still leaves you with the basic problem that you are tag-end on someone else's estimates?

Miss Clark: Yes.

Mr. Rotenberg: The members of the board, as distinguished from your support staff, are appointed by whom?

Miss Clark: Order in council.

Mr. Rotenberg: Then the board itself, distinguished from all your support staff, is not in the ministry?

Mr. Breaugh: Yes.

Miss Clark: Yes, we are in the ministry.

Mr. Rotenberg: You are in the ministry, but you do not work for the ministry; you work directly for--

Miss Clark: We work for the board. I think they see us as part of themselves, but we are assigned to the board.

Mr. Rotenberg: I am trying to get at distinguishing this from your backup services. When you sit in a hearing as members of the parole board, do you consider yourselves part of the ministry or do you consider yourselves as an independent board?

Miss Clark: Members of the board.

Mr. Rotenberg: You do not consider yourselves as being--I do not want you to take this in a derogatory sense--in any way under the influence of the ministry? Or do you?

Mr. Breaugh: It must be very difficult to pretend you are not influenced by the ministry when everything you have and do is controlled by it. You can fantasize all you want, but--

Mr. Rotenberg: That is what I am really trying to get at. Your pens, pencils, typewriters, secretaries and all that come from the ministry, but yourselves as members of the board do not. You come directly by order in council.

Miss Clark: That is right.

Mr. Rotenberg: That is what I am really trying to get at. Maybe this is a judgement call and I can understand what Mr. Breaugh is saying, but do you members of the parole board feel yourselves part of the ministry or as an independent agency that the ministry feeds? This is a very fine line, but I think it is important.

Miss Clark: I think in that decision-making function, when we are sitting right there, we are members of the board and apart from the ministry.

Mr. Rotenberg: You can psychologically feel that way, even though they supply you with pens and pencils, etc.?

Miss Clark: The problem comes when they do not supply--and we have a great deal of difficulty in the area of information. That is also their problem; it is not just peculiar to us.

The whole information system in the ministry needs overhaul and they are working on that. But it certainly directly influences how quickly or how slowly we may act, or on what basis we are considering decisions at times. However, the board members would certainly see themselves as functioning independently in a hearing.

Mr. Rotenberg: When you talk about flow of information, is that general information or information about individual cases?

Miss Clark: About the inmates. I am talking about the information upon which the board is investigating its cases.

Mr. Breaugh: I have a problem with that. You can fantasize that you are sitting there independently, but the truth

is if the ministry does not provide you with the information you cannot act. Is that not right?

Miss Clark: That is correct.

Mr. Breaugh: How can you pretend you are independent? You are independent only in the sense that while you are hearing a case you are probably reasonably free to make decisions. Nobody sends you nasty letters saying, "Don't let this guy out on parole," or, "Give this guy parole."

Miss Clark: We get all kinds of opinions about whether they should or should not be on parole, but I think I am quite correct in saying the board sees itself as the decision-maker. We have not had someone tell us we must change our decision or decide in one way or other. There may be opinions expressed, but that is true of a great many--

Mr. Breaugh: Sure. If you had your druthers, would it not seem more logical to have you either totally unaffiliated with any of the ministries or moved into something which would be seen as more judicial in nature, like the Attorney General's ministry?

Miss Clark: I suppose ideally we might lean towards the same structure as other provinces in the sense of being able to have equal footing with all of the major components of that system, from the police to the other side of corrections. That is not possible in Ontario, so the question becomes whether we would be better in the AG's ministry or in the Ministry of Correctional Services. That is very difficult to answer.

Mr. Breaugh: In the Canadian norm, where would a parole board fit?

Miss Clark: From the viewpoint of the parole boards of Canada--and I am familiar with that group and its thinking--they feel the parole board must be separate from the major actors of the system. They feel there should be quite an independent relationship and that the board has a function to perform in the process that is unique and different. Just as it ought not to be influencing some of the other earlier steps, in order for it to have credibility in the eyes of the community, it should be seen as a board that is apart and objective and not able to be pushed more one way than another by the various action groups.

What we find when we talk with the public is they will question us very closely about our being in the Ministry of Correctional Services and how much they are able to influence us. It is a very common to be asked, are we letting people out because it is overcrowded or are we keeping people in because there are lots of beds available? That, I think, falls from the perception people pick up from this and wondering how it all fits together.

Mr. Breaugh: In any other province in Canada, where would the parole board likely fit?

Miss Clark: In Quebec, it is under the Ministry of Justice. All of the sections of correction are under that ministry. In British Columbia, it is under the Ministry of the Attorney General. Corrections, police, courts and the parole board are all under one administration with separate linkages. On the federal scene, the national board is with the Solicitor General and has equal footing with Corrections Canada. They are quite apart; they are not administratively linked in any direct way.

Mr. Breaugh: Frankly, most of those seem to me to have more logical placings of a parole board than what we do in Ontario. In my mind, the linkage is to the justice system, not to the correctional system.

Miss Clark: They include corrections as part of the total justice system, so they are all under one umbrella, whereas we have a split there.

Mr. Breaugh: Another area I wanted to explore with you a little bit--and it is difficult to do this because of where you are placed--is that the Ministry of Correctional Services can and does have a heavy influence, not just on the public perception of the parole board, but I am sure it must have a more direct effect on you as well. For example, a number of the programs they run deal with the same clientele, so to speak. If they run a temporary absence program, for example, I am not sure very many people out there see much of a distinction between that and the work done by a parole board. From your work load or your point of view, it seems to me that type of programming must have a direct effect on how many people you would see and how you would consider them for parole. Do you find very many instances where that kind of mucks up the process, so to speak?

Miss Clark: Yes. I think the questionnaire asked about overlapping and our response was that in the temporary absence program area there are difficulties of encroachments, if you like. The ministry recently brought in a program of allowing individual institutions to classify prisoners with sentences of 124 days or less. In that process is the expectation that there will be a greater use of the temporary absence program.

In order to facilitate that program, they ceased doing some projects that were going on related to parole. The basic rationale related to how money resources would be used. Their judgement was that the temporary absence program was cheaper, more quickly and more locally administered and that the parole board was more costly, not as quick and, therefore, not as attractive.

Mr. Mancini: Are we discussing the temporary absence program as it works vis-à-vis the parole system?

Miss Clark: Yes. So we had some discussions about that decision-making. Some of the problems inherent in that was there is not a good enough process within the ministry that links the board into what they are deciding at a period of time when we can get into the issue and really debate the issue. There is a lag

there and we are often pretty close to the final decision-making process before we are aware of where they are heading and what it means for us.

2:30 p.m.

There has been some logistical problems about how the ministry relates to the board, how it sees policy related to us or vice versa and how that gets engaged at an earlier stage. It was one of the debates that led to my joining the senior policy meetings recently because it seemed to be the only way we could get in. I was involved in the meetings at the late stage and raised several criticisms about the program, but it was in the final stages of being implemented.

I think it was at that point that the deputy minister in particular recognized there needed to be something else happening here much sooner. He feels separate discussion or liaison with the board through himself is time-consuming when he has to go through it all in the senior meetings anyway. He feels it is easier for him and them if I am at that meeting and take part in the whole thing.

Mr. Breaugh: These are the kinds of things that concern me. When people start talking about a quick, cheap and cost-efficient technique, it strikes me that should be a concern but it should not be the first concern. If the minister is sitting there with his jails bulging and he wants to get these folks out of there, he will go hunting for a cost-efficient system that gets them out of his hair and out on the street faster and quicker. He hopes it is a reasonable way to proceed, but it leaves you, as you have just said, out of the picture perhaps until the decision is made. That is an awful way to proceed, quite frankly.

Mr. Mancini: If I may add, I do not think it comes down so much to quick, easy and cheap. I think it comes down to bureaucratic power. The deputy minister and his top civil servants have this power, and I do not think they are in a hurry to give it up. To me, having watched the process here for some eight or nine years, probably that has more of an influence internally than some extra funding.

Mr. Breaugh: I am a little more cynical than you. I tend to think they are looking for a quick way to get them out.

Miss Clark: That might be the motive of some of them, but I do not think so generally.

Mr. Breaugh: When you say it is cost-efficient, the truth is they are looking to turn them out quickly.

Miss Clark: If I may, I would like to enlarge on that because I do not think it is quite as simple as that. We have had two or three special projects going on related to the board's mandate and responsibilities to those who are sentenced to less than six months. It is fair to say that until about a year and a half or two years ago, the board was almost totally inactive in that area.

I am not sure I know all of the history of how that came about. Part of it related to the tremendous transition the board went through and the work load at the six months and over level. That group tended to be lost in the shuffle. I also found out almost by accident that my own board was interpreting its mandate to that group as only granting parole under exceptional circumstances. That is not the legislative definition, but my board was working within that framework.

When this all surfaced and we found it very difficult to be able to obtain the needed support services in the parole and probation division of the ministry, there was a general discussion going on out in the community. I think the John Howard Society of St. Catharines proposed that it could attempt a pilot project to look at the issues and problems for this group, how the board might carry out its mandate and what kind of supports were needed. So that project got under way.

It was a very interesting project from the point of view that there were a great many more people in that group who were interested in parole than we would have anticipated. There were certainly candidates who were well worth looking at. That project went on for some time.

I think it also showed that there probably could have been an expanded use of temporary absence by the ministry. Now I am saying that the agencies active with the ministry do feel that rather than pushing people out quickly on TA, it is lagging. In fact, that project was born out of that feeling and concern, and I think the project itself would bear out their view, not entirely but to some extent.

Mr. Breaugh: There is a great deal of confusion in the community. I bet most citizens out there feel if you go to jail, you should go to jail. That ain't true any more. There are a lot of variations on that. It is difficult to explain to people why something like a temporary absence program is in place, how it does make sense in certain quarters and how the parole board functions and all that.

One of the things that always strikes me as being absolutely weird about the whole judicial system is there are some things to which no price tag is ever attached. When the courts sit down and go about their work, money is the last concern. I guess the best example is the Grange commission, which is functioning down the street. When the price tag for that little number rolls in, it will be astronomical without question. Everybody is represented by lawyers there. If you rolled that cost in, that would probably build a domed stadium for Toronto.

At the other end of the system, though, I do a lot of work with the John Howard Society, for example. It strikes me they are a group of people who work very closely with you and who have, I think it is reasonable to say, relinquished their amateur status, but not by a hell of a lot. When you look at the facilities under which they operate, their offices and things of that nature, and compare them to the other end of the judicial system, it is like day and night.

I always feel the whole system is backasswards, so to speak. Some funding ought to go to the other end of the system, to the John Howard Society, the Elizabeth Fry Society and the parole board to beef up that end of the system, if you ever hope to turn it around, because it is an odd system at work. In a sense, do you feel that is where you are placed, that you are a kind of afterthought in the whole judicial system?

Miss Clark: I think what happened to the parole board is that it was born in expansion at the wrong time. It came in at a time of very severe constraints. There was a great feeling of pressure on the part of those who had to deliver support services to the board. It was an incredible add-on to the work. We have probably taken a much longer time to win through that situation and get a much easier kind of co-operation going between the board and those sources than would have been so had times been different economically. It was a very difficult time.

The other thing that happened was the rest of the boards, which opted to have a provincial board, took a year before they actually went into operation, whereas the Ontario board was declared one day and was there the next. That is also historical in terms of where they were and how much they were functioning at that time. Quebec did not have a board. When the law was declared, they took a year to work it out.

Part of the Ontario board's situation relates to just how that all came about. It really has taken us a long time to get our board operating on a reasonable level of efficiency. Almost overnight we had to build relationships with institutional people, the probation and parole services, to get an enormous amount of information and co-operation.

Mr. Lupusella: The board asked for changes because it is in a situation where it cannot operate under the present conditions. It appears now you are a little bit critical of the system which makes the life of the board difficult to operate. What kind of changes did you ask for, if any? Or do you think the board has to request specific changes from the provincial government or federal government to make sure it will operate as efficiently as you want?

Miss Clark: I am just saying in answer to questions raised that there are delicate aspects to the relationship with the board and the ministry and those problems are talked about openly and are worked on. We might have had an easier time if expansion of the board had taken place under a little different circumstances.

2:40 p.m.

If you look at the figures, I think we have jumped from that initial case contact load of about 2,000 in the old board to over 5,000 with the new board. That created quite a substantial crunch as to the resourcing needed for the board. That is all I am saying; the circumstances were difficult.

Mr. Lupusella: What are the basic changes you are looking for to make sure--

Miss Clark: Right now?

Mr. Lupusella: Yes, right now.

Miss Clark: Right now we are negotiating with the ministry an entirely separate board apart from the community programs division so that the financing of the board can get separate consideration.

Mr. Breaugh: I would think you would really want out of that relationship.

Miss Clark: The board can manage that relationship within the ministry with a few changes. We have talked about that. When you talk about the perception from outside, that is a different matter.

Mr. Breaugh: There are a couple of other things I want to pursue. We have seen a number of agencies come in here for all of which the polite term is "order in council." Someone is appointed to an agency. The truth is the governing party uses that, sometimes to reward people, sometimes to recognize people, whatever. Although we have delved into it for some years now, no one has ever really explained exactly how these names churn out. It seems to me, quite frankly, that for a lot of purposes it really does not matter, that you will find that, even if they all happen to be roughly of one political strip belonging to one of the two old-line political parties, it really does not make much difference.

But in a matter such as a parole board, it seems to me that is a particularly sensitive area. We are not talking about fence viewers, arbitrating a decision or something like that. There ought to be a better way to put people on a parole board than this mysterious order in council route. We could give you an academic rundown of what this quaint system is all about, but it seems totally inappropriate to do a parole board by this means. There ought to be some better way of identifying on a local basis who the citizens might be and of taking recommendations in a more public way.

For example, when you get to the appointment of judges, which is another small sore point of mine, at least I have to admit there are some criteria at work which are reasonably well known. I can think of one exception to that, but for the most part judges are people who have a legal background and have been trained in the law. If they are Liberals or Tories, they will eventually get their appointment to the bench.

Interjection: Or the New Democratic Party.

Mr. Breaugh: Yes, we have a few souls who have made it. I do not know how that happens, but it does.

Interjection.

Mr. Breaugh: Can you read, Herb? Are you pretending again that you can read? I told you to stop doing that.

What I am trying to get at here is, is there a better way either formally by altering the major process or informally--for example, could we generate through the John Howard Society or the Elizabeth Fry Society people who would be good citizens to serve on a parole board? There are a number of agencies out there that are interested in working with rehabilitation programs or whatever.

I notice this morning you went through the process of describing how you try to interview each member of the board and really lay out for him or her what this job is all about. It seems to me that is absolutely necessary because of the nature of the work that is done. Should we not try to recognize that a bit more and pay more attention to it? I do not want to cast aspersions on members of the board and say they are all Tory hacks. Probably not all of them are. Could we as a committee turn our minds towards that part of the process?

Miss Clark: I can only reply to you as chairman of the board. We have defined, and are working on this process, the talents or skills we feel people need to be board members. We have a system of appraisal of a board member's performance, both with a view to recommendation for reappointment and also for staff development training. Internally within the board, if you asked me what the requirements are for a part-time member of the board from my perspective, I would send you this blue book. You could read it and see in black and white how the board states that.

The minister is also aware of this. If we make a recommendation to him about reappointment it is based on these standards, and the process is done with the board member, so he is aware of the opinion of his vice-chairman about what is going on with him and he has equal input into that process. So within the board itself it is a fairly open process.

I do not know what goes on in government. I do let the minister know what the needs of the board are with respect to the vacancies that are coming up, where they are in the province, whether there are any special needs and so on. Where it goes from there I do not know.

Mr. Breaugh: Is that a top secret document or can we see it?

Mr. Epp: Can you tell me why it is a blue book?

Mr. Breaugh: You still have to ask that question? How many years is it going to take, Herb?

Miss Clark: We do have orange folders and red folders.

Mr. Epp: Barbara, did you get that?

Mr. Breaugh: Is this a document that, for example, the committee could take a look at?

Miss Clark: Yes.

Mr. Breaugh: Good. Secret documents.

Mr. Sheppard: Have you got one for each of us?

Miss Clark: No, I do not. We did not have time to prepare it, but we would be glad to do it.

Mr. Breaugh: There is just one final area. It is a little beyond your jurisdiction, but it is as much yours as it is anybody's, it seems. I had a young guy 27 years old in to see me just before Christmas. He had done 11 years for three counts of armed robbery and one of attempted murder, I believe it was. He went into prison when he was 16 years old. He refused voluntary parole and refused mandatory parole. At the end of his sentence they kicked him out the door.

When I first saw him he had been out, I think, four days. He was absolutely spooked. He had no concept of how to function. When you stop to think about it, he had never had a chance to get a driver's licence, a library card or a telephone. He had never rented a room for himself, had never fed himself, had never been to school and had never worked in his life, and somebody just booted him out the door.

When he came to see me I called around. I called the police station and said, "Is there anything you guys can do?" They said: "No. In fact, we do not even want to see him. He is not on parole; he has not violated probation. He has served his time and he is out." In the end, the only group that would do very much for this guy was the local John Howard Society. The problem was that he was spooked, clearly. He could not cope.

He was living in a hostel. John Howard got him into a little apartment, got him some social assistance and got him into Durham College. I saw him a couple of weeks later. He came in and said he was really thrilled. He had got a telephone and he was going to school. He had a few little problems, but he was getting along okay and he had overcome some earlier difficulties he had had about dealing with the John Howard Society. But he said: "I do not have any clothes. If I had \$50 I could get myself a set of jeans and a pair of boots and I would be happy as could be. But I really do not know how to do this; I do not know how to cope with the system and all of that."

So I sent him back to John Howard. I thought we had him calmed down, but the first day when I saw him he said, "I can't cope with the outside and I think I am going to have to rob a bank." I said, "Gee, you can't very well do that." He said: "There is a safe way to rob a bank. You phone the bank and tell them you are going to rob it, then go to it and that will be the end of the problem. I will go back to familiar territory."

The really sad thing is that this is exactly what he did. He could not stand it on the outside, so one morning just before Christmas he went into a bank in Oshawa, took three people hostage with a knife and held them for about two hours. In the end he

released the hostages. The Durham Regional Police did a good job of trying to deal with the situation, but he ran out of the bank door and asked the police to shoot him. They did not do that.

What really struck me--and I do not think it was just the time of year--was that here was a kid who I think by anybody's standards we all knew was not going to be able to cope. He was not a kid any more; he was 27 years old. None of the agencies in my community, which is a highly organized community with all kinds of social service agencies and all kinds of people with a highly developed social conscience, could do anything for this kid.

2:50 p.m.

When it came right down to it, the little thing that would have got him over the hump was maybe \$50, maybe \$100. But social services do not do that kind of stuff anymore; the John Howard Society does not have the funds. The police department said, "He is not our responsibility until he commits a crime."

The moment he walked into the bank and took three hostages, money was no consideration. We flooded the area with police officers. We will put him through a court system costing us literally thousands of dollars. If we wanted to be cost efficient, we should have given the kid \$50 or a set of jeans and a pair of boots and he would have been happy. The last time I talked to him, that was his single biggest problem.

It really made me very angry that our whole system fell flat on its nose with this guy. We did not do ourselves any favours. We sure did not save any money. I imagine we will put him back in jail again and get him psychiatric help while he is there. But when he is out again six or seven years from now, maybe on parole, I am not so sure very much is going to change.

As something sitting in the middle of this process, what can the parole board do for a person like him? The numbers of such persons are not large but they are out there. I guess if there is a difference, it is just how stark it was this time. All these government and volunteer agencies could not resolve one man's problem. It is not just his problem; now it is ours. When he robbed the bank, he turned the key, opening up a whole judicial system here that is expensive, established and that works.

I really thought what a tragedy it is not just for him, but for the rest of us. We have all these systems at work; in this instance, none of them could function.

Miss Clark: I think I may reply more personally to this question than necessarily as chairman of the board, although I guess part of my answer will come from that direction.

I have worked in both the prison and community systems. I do not know this case in detail in terms of this person's background, but from what I am hearing you say, he bypassed a number of sources of help available to him. I could almost say they would have been put to him.

He could have the option to be considered for parole, but for whatever reasons, he turned it down. Similarly, he bypassed most of the supports that would have been offered. Plus, he would have had funds when he left the prison; what happened to the money, I do not know. But he would have had funds when he left, because they are certainly required in the provincial system. I am not certain about the federal system, but I expect inmates are required to save a portion of the funds they earn.

I am guessing a little bit, but I suspect this fellow had more problems than just the money factor.

Mr. Breaugh: Yes.

Miss Clark: He probably had real difficulty linking with services and vice versa. I think there is a real problem in our community about knowing how to work effectively with some of the individuals who emerge out of our prisons. You often find a regular line of agencies helping in some ways when someone like this man approaches them. It is really hard to say--

Mr. Breaugh: I think what angered me was this was not a 16-year-old kid any more. This was a guy who had spent 11 years in constant care in the middle of our judicial system. If you had someone in your system for 11 years, you ought to know something about him.

Miss Clark: Yes.

Mr. Breaugh: You have the staff in the federal penitentiaries these days to examine psychiatric or behavioural problems or whatever somebody might have. His refusal of voluntary parole should have been a sign to somebody the kid was a little wrong. His refusal of compulsory parole should have been a further indication of trouble. How did they kick him out the door?

Miss Clark: They would not have kicked him out. The time comes to an end. It is an artificial ending. When the sentence ends so does the jurisdiction of the criminal justice system. It is an artificial ending. Services are supposed to be in place at the discharge end to facilitate people getting back.

I suppose parole is supposed to function primarily as a source of control and help to an individual who suddenly does find himself on the street. It is a very difficult process to break back into, particularly in the federal prisons. It is bad enough for provincial people who have been out of circulation. It is even worse for the federal person.

If the individual refuses to work with people, and he would have had access to the John Howard Society right in the prison, it is hard for me to say what happened with him. From being a prison superintendent, I certainly know there are people who deliberately get themselves back. There is no doubt about it.

Mr. Breaugh: My problem is I do not come at this from the aspect of locking him up and throwing away the key. I think we waste literally billions of dollars across this country every year

because of that kind of stupidity. I think there are some people who are not going to be rehabilitated. I accept that, but it seems to me it is insane and cruel that we would devise a system which says at the end of 11 years, "Whether you like it or not, whether you are ready or not, out you go. If you do not want help, we are going to put you back."

It seems to me it is quite logical. His actions were quite rational in the sense that when he came to me on the first day, he said: "I know how to get back into jail. It is about all I do know, but I know how to do that and so that is what I am going to do." In spite of all of our professional assistance and all of the money that we have put into these kinds of programs, that is what he said.

For example, it really struck me as being odd, but I understand the position of the police officer I talked to, who was not a cop on the beat by any means, who said, "He is not my responsibility. He has not broken the law. When he breaks the law, then he is mine." It seems to me it would be more rational for a police officer or a police department to say, "We have somebody who can at least talk to this kid and get him straightened around a little bit," but the whole thing fell flat on its tail.

The parole system, as I understand it, might have done something for this kid. I do not know, but at least there would be a mechanism that is there.

Miss Clark: There certainly would have been various requirements made of him that probably would have helped him get a focus and get going. On the other hand, I think there is a group of people not only in the prison system, but in the mental health field and in the field of retardation, for whom the option of being able to stay somewhere permanently rather than in transition is a gap in our community.

If you look at most of the group homes, community resource centres, whatever, they are founded on the basis that people are going to come and go, not come and stay. I think there is a group of people, and he may be one of them, who need to come and stay not as in a prison or hospital setting, but as a supervised living circumstance for good or pretty nearly for good. I do not think we have many options like that in our communities.

Mr. Breaugh: One of the things which concerns me a bit is I believe that parole boards, which are often maligned, have a job to do. They are very necessary and they are one of the positive signs in the whole judicial system as I see it. It seems to me that role has to be expanded rather than contracted.

I get really nervous when I see people suggesting, and somebody said it in the committee before we started here, "Prisoners make cheap labour." I find that a really nauseating idea. I find the idea that you put somebody in jail for a crime and the guy is out the door the next day, not a sensible way to proceed. A parole board can intervene in there and I see some attempt being made to be sensitive, to deal with an individual's problem rather than a group problem.

I see a major role in the judicial system for something like a parole board. I feel saddened somewhat when I see it kind of stuck in the middle of a ministry not quite as an afterthought, but almost, and when I see it kind of held captive in a sense by other things a government wants to do. They may be good things to do and they may be necessary things to do, but it seems to me that a parole board deserves a bit better than that. I am saddened somewhat to see this in Ontario. We have not come anywhere near that mark.

I will leave you alone now.

Mr. Chairman: Gentlemen, are there any other questions? Mr. Breaugh was the last one on my list. Have any of the questions the researcher put in our briefing notes not been covered?

3 p.m.

Mr. Eichmanis: If I may, Mr. Chairman, in terms of your work load, you indicated earlier that in some areas of the province it is not that great, but in other areas it is. I am wondering if you have a breakdown by region of what the work load is in the various regions?

Miss Clark: Just as a general comment, I think the work load is really spread out throughout the whole province.

Mr. Eichmanis: Are there any particular regions that have a higher concentration of work than others?

Miss Clark: I think the Metro area here, our central regional board, probably experienced the most work-load growth. That is partly because the detention centres are here. In Mimico Correctional Centre there is a very high concentration of inmate population. There is also a high concentration of parolees in the area because they tend to gravitate to the Metro area and some other parts of the province. There is a much denser incidence here in the Metro area.

Mr. Eichmanis: How many members of the board would be dealing with matters in the Metro area?

Miss Clark: I will ask Mr. Lefebvre to speak to that.

Mr. Lefebvre: I am not sure if I have all the stats you are asking for, but--

Mr. Eichmanis: What I am trying to get at is--

Mr. Lefebvre: I am trying to find the number of hearings, for example, in the central region. We have some statistical data here. In December 1983, central region had 30 hearing days. That is 30 days when there was a panel of three sitting. That could be two panels sitting on the same day at the same institution or it could be at different institutions on the same day, but there were what we call 30 hearing days that month.

Mr. Eichmanis: What I am trying to get at is whether you feel there are enough panels of three or enough members to serve where there is a high concentration of hearings and a high concentration of work?

Miss Clark: No. We have made a statement to the ministry. For the first time this year, we appeared before Management Board and had an opportunity to go through some of the problems we are having in our internal operation by virtue of the fact we are short of full-time members.

We are fairly well off as far as part-time members are concerned. There are certain areas that could use slight additions, but the problem is really in our full-time ranks. The part-time member ranks have grown much more quickly than the full-time member ranks. We pointed out we had a concern that we were not able to give enough attention to the part-time members who are active less often and who need more input about the change of policy, the change of legal issues or what not. The full-time member acts as an anchor in the quorum around those kinds of issues to keep the part-time members up to date on what is going on. We have been thin in their ranks.

As far as I know now--we have not seen this in black and white, but we are hoping to see it--we will be getting an additional complement of full-time members to the board. If we get that, it will help our situation considerably.

Mr. Eichmanis: This is a somewhat unrelated question, but earlier in your opening statement you mentioned you have become more decentralized and at the same time your procedures are far more formalized. Perhaps you could elaborate a bit on the formalization of procedures and how it differs from previous years.

Miss Clark: A formal statement of policy and procedures of the board did not exist before September 1981. It has come out of the expansion of the board and the need to lay down some consistent statements of practice and policy. Before then it was very difficult to know what the policy of the board was. There was a great deal that went on verbally because it was a small group that operated together. A lot of the communication and policy was informal. When you stretch out to a network like ours, a manual really is necessary.

Mr. Eichmanis: So each member of the board would be given that.

Miss Clark: They have their own copy of that, yes. They have an orientation period which includes an introduction to this manual.

Mr. Eichmanis: They have to be pretty well versed in that manual before they actually make decisions.

Miss Clark: That is correct.

Mr. Sheppard: When new board members come on, do you let

them sit in on a board hearing before participating at all in the meeting?

Miss Clark: They go through a process which includes visiting the particular region they are assigned to, meeting with the vice-chairman and the staff, some introduction to the manual and sitting in on at least one hearing before they come to Toronto for the orientation program that all part-time members take part in. Some of them get to be present at more hearings than that, but we ask that they manage to get to one in time for the orientation program.

They come to Toronto for about four days of orientation in the manual itself, case material and decision-making interviewing. They listen to speakers and panels on the justice system. It is a general orientation both to the justice system and to the board. Then they go back to their regions and they observe for another period of time. It is really up to the vice-chairman to decide when they are ready to become active.

Mr. Sheppard: Do they get paid for the orientation days?

Miss Clark: Yes.

Mr. Eichmanis: Is the need for the manual occasioned by the Charter of Rights and the need for perhaps more clearly defined procedures that will comply with the Charter of Rights? Is there any impact of the Charter of Rights on the way you operate?

Miss Clark: Yes. I think the first initiative for the manual was out of sheer need on our part to set down some guidelines for our members and also to be able to let everybody else know what we were doing, because all of a sudden there was a great deal of confusion about who was doing what. Similarly, the administrative agreement between ourselves and the ministry was an attempt to define roles in a way that had not been done concretely before.

The Charter of Rights certainly played a part in the sense that when we distributed this, we put it in all institutions, all jails, all law libraries and all universities that had a criminology section. All of our field staff got it. It is widely distributed. It is in the information system of the government.

Mr. Eichmanis: So a parolee would have access to this as well?

Miss Clark: That is right. The parolee can get access to this in the institution just as the public can get at it through various sources. That circulation was determined on the basis of wanting everyone to know how the board operated. That certainly was related to the Charter of Rights.

Mr. Chairman: Thank you very much for attending today and being very co-operative with us.

Gentlemen, since we have a quorum, perhaps it is an opportune time to finish up the review of those other three.

Mr. Lefebvre, did you wish to say something more?

Mr. Lefebvre: No, I just wondered if we could get that manual returned some time because it is the only one that is available. If you want copies, I can make copies available to you.

Miss Clark: I do not see a problem. We must have some back at the office, so if you want to keep that one, that is okay.

3:10 p.m.

Mr. Chairman: I think we should go in camera for consideration of the researcher's report. Am I correct? Mr. Edighoffer says "Correct."

The committee continued in camera at 3:09 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
SOCIAL ASSISTANCE REVIEW BOARD

WEDNESDAY, FEBRUARY 15, 1984



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breagh, M. J. (Oshawa NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Hennessy, M. (Fort William PC)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Lupusella, A. (Dovercourt NDP)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Sheppard, H. N. (Northumberland PC)

Clerk: White, G.

Staff:

Eichmanis, J., Researcher, Legislative Library
Kilpatrick, M., Researcher, Legislative Library

From the Ministry of Community and Social Services:

Fulton, H. E., Legal Counsel, Social Assistance Review Board
Strauss, E. F. H., Chairman, Social Assistance Review Board

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Wednesday, February 15, 1984

The committee met at 10:09 a.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
SOCIAL ASSISTANCE REVIEW BOARD

Mr. Chairman: Gentlemen, I see a quorum this morning. Perhaps we should begin. First I think the researcher, Mr. Eichmanis, has something he would like to bring up.

Mr. Eichmanis: Mr. Chairman, if you would turn to your background paper on the Social Assistance Review Board on page 5, there is an error in the bottom paragraph. In the figures for the various hearings with respect to the Family Benefits Act, the Family Benefits Act figure is correct, but the General Welfare Assistance Act number should be changed to 1,734.

Mr. Epp: You are on page 5? Where are you again?

Mr. Eichmanis: At the bottom of page 5.

Interjection.

Mr. Eichmanis: No.

Interjection: I have got a different page 5. Wait a minute.

Mr. Eichmanis: Social Assistance Review Board.

Interjection.

Mr. Eichmanis: This happens sometimes. Instead of 119 for the General Welfare Assistance Act it should read 1,734. The 119 is for the Vocational Rehabilitation Services Act. It is 1,734 for the General Welfare Assistance Act, and then 119 is the Vocational Rehabilitation Services Act. Somewhere between typing and--

Interjection: Oh, yes, typing error.

Mr. Eichmanis: I apologize.

Mr. Breaugh: The cheque is in the mail. It is a typing error.

Mr. Epp: It is too bad we do not have the secretaries here to defend themselves. They get blamed for everything.

Mr. Chairman: Thank you. All right, we have got that.

Mr. Chairman: We have with us this morning Eugene F.H.

Strauss and Harold E. Fulton, the chairman and legal counsel, respectively, of the Social Assistance Review Board. I believe you have an opening oral statement.

Mr. Strauss: Yes, Mr. Chairman, thank you. Just briefly, as the chairman indicated, this is Mr. Harold Fulton, QC, who has been legal counsel to the board for the last 11 years. He is with the firm of Campbell, Jarvis, McKenzie and Fulton and is therefore independent of the agencies whose decisions we review.

I do not have very much to add to the background material that has been provided to you in the researcher's report, which I think has been very well put together. We certainly agree the main difficulty and area for concern at this time is the time lag in respect of decisions going out.

If you wish I can provide some explanation to show we have taken and are continuing to take steps to improve our performance in this area. However, unfortunately, the increase in volume and the changing pattern of representation and so on tends to offset the gains almost as quickly as we make them.

You saw our annual report for last year and that showed an increase over the previous year. In the year to date--that is, in the fiscal year 1983-84--we have a nine per cent increase in the number of cases coming in. There is also a 21 per cent increase in the number of requests for reconsideration, in the 10 months for which we have statistics. So our work load continues to increase faster than we can make improvements.

There is also a continuing trend towards postponed hearings at the request of the appellant--usually at the request of the appellant's lawyer. In other words, we set up a hearing and then are asked to cancel it and set up a new date.

In 1982-83, as I pointed out in the annual report you have, that affected eight per cent of the number of cases. Because many of them are rescheduled more than once, it represented an 11 per cent increase in work load. There were 11 per cent more cases to be scheduled than the number of cases we have really shown as having come in. Since our time span is usually measured in 61 days, which I can explain a little more later, that postponement affects the 61 days--which is not at the behest of our board.

The real delays that I think we are addressing and are trying to do something about are those that follow the hearing. In other words, the hearing has been held and then it takes too long to get the decision out. We do have a need for comprehensive, reasoned and, above all, equitable decisions. As I have said on other occasions, if we have to choose between speed and justice, we would prefer justice. We would rather make the right decision late than the wrong decision within the time limit.

We are doing our best to try to improve that delay. We are cognizant of the fact that we are dealing with people's livelihood. Even if we say no to them, they should know that as soon as we can get the answer to them.

Apart from that, we believe Ontario's welfare appeal system is one of the best, if not the best, among the provinces. I have just returned from a three-day workshop in Ottawa where all the provinces were represented. Certainly needs across the country vary but from the exchange of information, which was very helpful, I think Ontario has nothing to be ashamed of.

With that, Mr. Chairman, we are in the hands of the committee.

Mr. Breagh: What can be done about getting the system to work a little more efficiently? What kind of steps have you taken to expedite the review of cases and to get the decisions out quicker?

Mr. Strauss: As I said earlier, really the hearings themselves are now fairly early. The delay is not usually at our behest but rather at the behest of the appellant or his representative.

There are times, of course, when we have delayed a hearing because of its location. We try to schedule the members on tours that are reasonably economic and sensible, and we do not schedule hearings in Moosonee every week. Occasionally we do have problems in having the right number of members. For example, a reconsideration hearing requires three members so we do not risk a split decision. Sometimes we have to delay that to be able to bring three members together.

Let us say it is a French hearing and we need three French-speaking members. We have four French-speaking members on the board at the moment and that is usually quite adequate. But in some cases it needs some special delay.

As to delays beyond the hearing, after the members have been out there they complete their tour of duty, come back, hand in the cases, discuss them with each other, may seek advice from legal counsel, and we have to translate their notes into some formal type of document. The courts require and the Statutory Powers Procedure Act requires that we give reasoned decisions. We cannot just say "affirmed" or "rescinded" without showing fairly clearly how we arrived at that decision. That takes staff time and typing time.

What we have done to try to reduce the delay is to standardize paragraphs and use word processing equipment. But the cases are so varied and the circumstances so unpredictable that one can only go so far. We have got approval for additional staff. We are in the process of recruiting that staff. Again, you do not train people overnight to write a complex decision from a complex set of facts. That is really all we can do.

Thought has been given to other methods. Can we cut down our format? Perhaps we can find a way. There is always a better way and we are continuing to explore that. Beyond that, there is not much more we can do. We have potential for more members. At present, there are 24 members on the board. The regulations will change to provide for a potential 31 members, so if our work load

increases and we find ourselves strapped for members to hold hearings, I think that will be relieved. I am confident a year from now we will be out of the woods unless, of course, the increase in cases really becomes an avalanche. I hope for everybody's sake the economic conditions of the country are not such that would occur.

Mr. Breagh: One of the concepts discussed briefly in the staff report is that of some type of regional board so there is a smaller piece of geography to deal with. Have you given any thought to that consideration?

Mr. Strauss: Yes, but I do not think that is the problem. First, we do have regional boards inasmuch as the members travel to the country, which makes it very convenient for the appellant and for the representative of the respondent, whether that is the local municipality or the local office of the director of income maintenance branch. There is also an advantage in having one group of members do the travelling who share their experiences with each other every week. There is an ability to standardize and make sure there is some consistency in their decisions.

If they were local, they might have some difficulty being as impartial as I hope our members always are. I do not think much would be gained. We would have additional administrative problems in the sense we would somehow have to get to the people on the local boards to provide some sort of standard, some support staff and so on. I think doing it centrally and having the members travel out in groups is probably the best arrangement.

Mr. Breagh: Of the two options, you are probably saying, "Put more members on the board."

Mr. Strauss: Yes, if that is the--

Mr. Breagh: They would be a lot more active in travelling rather than localizing it.

Mr. Strauss: Right.

Mr. Fulton: It might be of advantage to the committee if you told them about the Monday meetings, how they came about and what they do. That also takes away from the question of regional boards to some degree.

10:20 a.m.

Mr. Strauss: The process is that all members come in to the Toronto office on Mondays. They bring back the cases they heard the previous week and present them, as we call it. If there are two meetings going on concurrently where members say, "We have heard a case in wherever, and it was a case of not looking for work; we have heard this evidence and that evidence and we find such and such," most of those cases are disposed of very quickly because they tend to be routine.

But the more complex or more interesting cases presented in this way provide an opportunity for two things. First, we are sure

there is some consistency, that the members have not overlooked something that jumps out at the rest of us who happen to hear the presentation. We might then say to the member: "We note that you have given evidence in such-and-such a case. Do you not think that..." This does not happen very often, but it happens. It also provides all the other members who were not on this more complex, interesting case an opportunity to learn about it, because they may have one like it two weeks from now.

So on Mondays the members come in and they present their cases from the previous week. They may decide at that point that they would like to have legal counsel. It may also be that the member who presides at the hearing and whose responsibility it is to write up the notes and present the case will meet with his or her partner from that hearing, because the members do not spend the whole week together necessarily. So if they have not made up their minds collectively what the decision is, Monday will provide them with that opportunity.

They also pick up their new cases for the rest of that week and they deal with the administrative matters, like expense accounts, travel schedules, tickets and so on. But that Monday meeting is really a most useful training ground and provides the assurance that within reason there is consistency across the province and it is not a matter of luck who happens to be presiding at the hearing.

Mr. Breaugh: Most of the members of the board--in fact, I think all of them--are considered to be civil servants in a sense.

Mr. Strauss: No, none of them except the chairman. All other members except me are appointees by order in council and are paid on a per diem basis.

Mr. Breaugh: The staff paper I have here, I take it, makes a distinction between the staff and the board itself.

Mr. Strauss: Yes.

Mr. Breaugh: One of the problems I would see with it is that you have different pieces of legislation that are rather disparate. Does this complicate life for you? Just in looking at the framework under which the board must operate, it seems to me that you are given some rather different pieces of legislation upon which you have to make decisions. Does that make your life rather complicated, or is it just an interest factor?

Mr. Strauss: The legislation is complex. Any one of them is complex.

Mr. Breaugh: Yes.

Mr. Strauss: The Family Benefits Act and the regulations under the Family Benefits Act in themselves are complex. The General Welfare Assistance Act and the regulations are complex.

On the other hand, there is a great deal of similarity. In

other words, the criteria in many cases--not in all, but in many--are the same. If, for example, a woman is deemed to be ineligible because she is not the head of the household, does not lack a family provider or whatever the wording happens to be, the criteria are really the same. Therefore, the members are familiar with the standards and would be able to look at a decision under either act equally well.

There is a certain interaction between the assistance. Generally speaking, general welfare assistance is short-term assistance, and somebody who may not be eligible under the Family Benefits Act, which tends to be long-term assistance, may very well be eligible under the General Welfare Assistance Act.

Appellants come with both problems and, while we are primarily there to hear the evidence and to weigh whether the facts justify or do not justify the decision that is being appealed, we can be helpful to the appellants in an informal way and say: "This is what the legislation says under the Family Benefits Act. Have you made an application under the General Welfare Assistance Act?"

Sometimes we hear cases where a decision is appealed under both acts concurrently, and again, of course, it is an advantage (inaudible). I think the advantages outweigh the disadvantages, but in both cases the legislation is complex.

The Vocational Rehabilitation Services Act, where we had only 119 cases, is also difficult and, while the numbers are small, the situations there are usually complex and we tend to have long hearings under the Vocational Rehabilitation Services Act, particularly where the appellant is mostly represented by lawyers who tend to cover the waterfront more extensively.

Mr. Breagh: As one who works with constituents a fair amount under these acts, my general impression is the public feels very confused by the kind of legislation that is in place, by the process that is there and by the fact that in many instances they feel, rightly or wrongly, that there is an unreal expectation placed on them.

In other words, if these were corporations with lawyers on staff, this would all be normal business procedure, the kind of thing you do every day. But for the general public to have an appeal under any of these statutes is a confusing mess, quite frankly. Part of what I suspect all members of the Legislature face is that you have to gather up resources usually just short of being legal in nature. In other words, you have to find somebody in your community who has some expertise and some experience in dealing with these acts and try to channel people in that regard or you develop that expertise within your own office.

For example, for me, and I guess everybody else, when people walk in the door, they walk in with a myriad of problems and you are supposed to have, either in your own mind or on your staff, somebody who can help with them. It becomes tantamount to running a full-tilt legal service from time to time. It is a very awkward process.

What can we do that would sort out some of this mess? Various folks at different times--the Ombudsman for one--have suggested we get a battery of lawyers and let everybody who has to face this process at least have a lawyer to go in there. But for most people under any one of these acts, to tell them to go and hire a lawyer is a ridiculous notion. What can we do that will resolve some of these problems?

Mr. Fulton: They are being addressed. The people have access to legal aid clinics. There are a few around the province that are very good. The people who come from those clinics who appear before the board, or end up by appearing before a Divisional Court if there is an appeal from a board decision, are quite good. They are used to it, they are interested, they like what they are doing, and people get very good representation from the community legal clinics.

Apart from that, most of these people have the right to apply for legal aid. Getting it is a cumbersome process, but the fact is it is not too often that legal aid is turned down if there is what they consider to be a good case.

There have been a number of cases where counsel have appeared on a first hearing for the decision against them. Then one will appear in a reconsideration hearing which we grant automatically if they have filed the papers within the proper time. Then legal aid will refuse to let them go up on the second bite at the cherry because they feel they had the representation the first time.

That does not happen very often. I would say if people want assistance, they have the ability to get it in most cases through the community legal aid system, the community branch services system or legal aid.

Mr. Breaugh: I do not have the benefit of a legal aid clinic in my constituency, so what we wind up doing is matching up people in our community who have spent a long time fighting these kinds of battles and who have a developed almost a layman's form of expertise in certain fields.

It really does strike me that we do spend a lot of time and effort trying to match them up and it is hit and miss. We are missing people; we know that. The process is one which, if you have a legal mind, if you have legal training, is a very clear process. It is part of your normal business day, so you know the rules of the game, you know how to proceed, but that does not describe very many of my people. They do not play in this league very often.

Mr. Strauss: Could I add something to this? Again, I appreciate the points that were made and some cases certainly need a lawyer.

I am just looking for my little pamphlet we send out with every acknowledgement. You may have seen it, a round pamphlet, in which we have tried to explain this as clearly as we can. We tried

to explain the process, what the person can do at the hearings, or what will happen if he does not show up, and what he can do afterwards if he does not like our decision.

10:30 a.m.

The process, as opposed to the legislation--in other words, what the law provides--is not in our hands, as you know. I think the appeal process is reasonably simple as long as a person applies within 30 days of having a decision, and even that we do not stick to too seriously. If somebody comes in with an appeal 35 days after he has a decision, we usually do not turn it down. If it is six months later, we may say it is too late but ask him for a good reason why we should extend the time, and we usually do.

A person has to file a piece of paper to tell us that he is appealing. Very often he will not give us any reasons on the piece of paper, which makes it difficult for us to know whether the case is even within our jurisdiction. If he signs his name and says, "I appeal," I would hope he would tell us under what act. That starts the ball on its way.

We assure people as soon as they come to the hearing that it is an informal meeting, which I think is important and good. Frankly, one of the disadvantages in bringing in lawyers, and I do not want this to be misunderstood, is that the process tends to become more formal and more frightening to the appellants. So if appellants come with or without a lawyer, we have a good look at the statement, tell them it is an informal hearing and we are not part of the ministry or part of the municipality and we have nothing in our file that they or the respondent have not sent us both. So they can tell us whatever they think we need to know.

I am not quite sure how much more simple I can make it. I agree that our decisions are sometimes a little wordy and, as I explained earlier, we feel we need to cover the main points--what happened, who said what, more or less, and why we came to the conclusion that we came to.

From our little pamphlet, appellants know they can ask us to reconsider our decision within 30 days. As I said, I am not quite sure how much more simple the process can be made or whether having a lawyer there in many cases would simplify it.

I indicated earlier that the delays in hearings are often because of the other commitments of the lawyers. I often wonder if that is in the best interests of the appellant who is, after all, anxious to have a decision on an income matter. I do not know what else one can do, really. We would welcome any suggestions and will gladly explore them and examine them.

Mr. Breaugh: When Arthur Maloney was the Ombudsman, he went on the track mainly because of his legal training that whenever you get into this kind of stuff you should give everybody a lawyer and let the lawyers go before all of these boards and argue it all out.

My difficulty with that is pretty much what you have said. Every time you involve the lawyers with it, it immediately becomes a court. Lawyers are good in court. They know how to stall things, they know how to keep proceedings going and they know how to cover the waterfront. They are all talking about the Charter of Rights and Freedoms now, about whatever it is you have is a violation of the charter. I really do not want to do that. Courts are great places, but I would rather keep everybody out of them.

I have some difficulty with review boards such as this, mostly on the premise that of the options that are available we could get really legal about all of this, which I do not want to do, or at the other end of the scale, which I tend to favour, we could forget about it. I am not convinced, quite frankly, that review boards of this nature really do a whole lot of good. Sometimes, in the long run, I think I would be an advocate and say that we should sit down, figure out how much this review board costs to operate, then roll that into the fund and let it have the money. I would rather not bother with all that aggravation.

Mr. Strauss: There is a requirement for a review process under the Canada assistance plan; therefore, it is not quite within the Ontario government's purview, but of course it could have a much more perfunctory appeal system. In the interests of the 16 per cent of people whose decision the board has reversed, however, I feel the board is worth while.

I am not suggesting direct income maintenance or that if the municipality, when asked to think again, might not in some of those cases alter or reverse its decision, but that is open to the appellant in the first place anyway. In all cases, the director of income maintenance branch says in his form letter, "I intend to refuse" or "I intend to cancel" or whatever. He says, "You have 10 days in which to get back to me and tell me why I should change my mind." Then 10 days later he sends out a confirmation letter if he has not had an appeal.

The opportunity to go back to the authority that made the decision in the first place always exists. The appeal board provides people with a feeling of an independent review--at least most of the time. Sometimes it is difficult to convince them we are independent, but I assure you we are.

Sometimes we are able to explain to them why the decision was made the way it was. We say, "The legislation provides that you shall have to comply with the following in order to qualify for," whatever. I think it shows justice is being done.

Mr. Breagh: I am not a fan of the bureaucracies of this world. For most of the people I represent, the bureaucracies are the real enemies they face. In a time of need they run up against somebody who has a very clear mind and a very clear definition of why they are there. These officials keep saying to my folks, "Sorry, you do not fit in my box." So my folks go without any assistance.

I would like to wrap up with something I tried to pursue with a lot of agencies, that is, how do you get people on your board? Where do they come from? What is the process? How do you arrive at them? What do you do with them after you get them?

Mr. Strauss: I do not arrive at them at all. As the minister says every year at estimates, "The appointments to the Social Assistance Review Board are made by the Premier's Office." And order in council appointments are made by the Lieutenant Governor on the recommendation of cabinet.

What I do with them when I get them is train them or help them get training in the best and most practical way we know how. The process goes something like this: I am informed a new member has been appointed to the board and I meet with him for an hour or so. We have a general chat about what the board does, what he knows about the board and the person's availability. Some of them have problems travelling because of a disability or something.

We give them a handbook we have put together which outlines in general terms the policy of the board, what its function is, what its jurisdiction is. The handbook is in layman's language, rather than in the wording of the legislation, and it tells what the procedures of the board are, what the forms are and so on.

I would attach them to another team as an observer for a period of three, four or six weeks. It depends really on the individual, how comfortable he is, how we perceive his ability to pick up the general process. They merely attend as observers, they have no part in the decision-making process, they do not participate at the meeting nor at the hearing and they do not ask any questions. They ask questions of their colleagues afterwards, such as, "What happened here? Why are you arriving at this decision?"

They are called to attend all the Monday morning meetings where there is a cross-fertilization of experiences. When we believe members are ready and they feel they are ready, we attach them to the team as supporting members. The votes or the decisions of the members carry equal weight, but it is the presiding member who has to do the work really. He or she has to run the meeting, ask most of the questions, make sure the procedure is according to the requirements and write up the case.

For another two or three weeks, or however many weeks are required, the new member would be a supporting member. Then they would be tested out as the presiding member on the simpler cases, if we can determine what a simpler case is. So they get their training over a period of two or three months of actually learning on the job, plus the Monday morning meetings. Of course, they can come back to me or to the executive secretary at any time and say, "I do not quite understand what goes on here" or "Why is this happening?" By and large it works very well.

Mr. Fulton: Another thing you could mention is the semi-annual meetings where all the members are present and we go over the cases.

10:40 a.m.

Mr. Strauss: That is true. Twice a year we hold an all-day meeting of members which provides opportunities for study of court cases. We do not have too many, fortunately, but some cases do go to the Divisional Court of the Supreme Court of Ontario. Mr. Fulton gives us a summary of the cases that have broken new ground, why the court found what it did, whether it is in our favour, and whether it is supporting our decision or finding against us, which happens even less frequently.

It provides an opportunity for the members to ask questions and make suggestions. Often the members say, "Why do we not take the following approach?" That often happens.

Mr. Fulton: Just to address one thing about the usefulness or otherwise of the board, if you are looking for something to help the individuals, I think the community legal services groups which are funded by the province are of great help to us. As Mr. Strauss said, I have been counsel of the board for some 11 years and we have found over that period that the people who come from those places know an awful lot more than lawyers who are hired individually by the appellants. They know their business, they know what to do and they know what they can expect.

I find that much better than the legal aid system. Those clinics are really very valuable to the community. They know the situation and they usually present it well.

Mr. Breaugh: One of the things we might do in trying to get at this--there have been a variety of ways from different boards and agencies of trying to address themselves to this problem. I guess the Workers' Compensation Board has advocates on staff who attempt to do this kind of thing. Have you ever recommended funding an expansion of this legal aid clinic concept on a fairly broad scale so that, at least in each region, there would be a place such as that where someone who would appear in front of you would at least be able to go and tap in?

My experience has been they develop an expertise in that area. It seems to me they find a rather nice middle ground between the complete legalistic let's all go to court point of view and a person who is almost on his own. There is a middle ground provided by these clinics where they give them enough background and point them in the right direction. The difficulty is that not every municipality has a clinic. If you come from Toronto you have half a dozen clinics to choose from, and if you live in Oshawa or Mississauga you have nobody. Have you ever advocated that point of view?

Mr. Strauss: I have not.

Mr. Fulton: We have never advocated it, but if you are asking me the question, I think that is the answer. I think that is a good answer to the problem of getting representation for the individual who does not know what it is all about.

Mr. Breaugh: Besides, there are also a lot of lawyers out there who are facing tough times. Maybe this would be a good employment opportunity strategy for them.

Mr. Chairman: Mr. Breaugh, as far as Oxford is concerned, contrary to what the gentleman said, the general rule on getting a legal aid certificate for any of these matters is they are denied a legal aid certificate.

Mr. Breaugh: Yes. That would be my experience too.

Mr. Chairman: It is the exception when a legal aid certificate is given.

Mr. Breaugh: By the way, your answer to how you get those folks rates about a six, which is pretty good.

Mr. Strauss: There is one on having the advocate available to the appellant. We certainly have no reason not to want them, but there is the problem that we do from time to time hold hearings in remote locations, including the appellant's home. Our members travel miles on back roads from time to time to hold a hearing in somebody's home because for one reason or another he or she cannot attend the hearing.

It would really mean the advocate also has to go, preferably, before the hearing. I do not think the advocate should be part of our system--an advocate system by all means, but I do not think the advocate should be seen to be part of the Social Assistance Review Board structure.

Mr. Lupusella: The compensation board has that.

Mr. Strauss: I do not want to criticize the compensation board, but I would feel less comfortable having an advocate on my staff telling the appellant how to present his case. We are supposed to be impartial to both sides and I hope we are doing a--

Mr. Breaugh: I would not propose the Workers' Compensation Board as a model for anything to anybody ever.

Mr. J. M. Johnson: I have a couple of questions, mostly on the mandate and general policy.

I would expect your board would have the opportunity to listen to many people present certain concerns you might feel should be passed on to the appropriate ministry. Does that happen?

Mr. Strauss: Do you mean do I pass them on to the ministry?

Mr. J. M. Johnson: Yes. I am thinking in terms of the valuable experience you have gained and the knowledge you have picked up through years of listening to these things. There must be some mechanism by which we could direct it in a manner that the government would benefit from the knowledge you have gained.

Mr. Strauss: Keeping in mind we want to be seen to be independent, we have to be very careful how we do it. There are informal ways. I occasionally talk to the minister or to the deputy minister or to the director of the income maintenance branch and say, "It would be helpful if you would--" or "Have you given consideration to--?" or something like that. Beyond that, I feel I cannot go.

The other thing is the ministry gets a copy of all decisions centrally as well as to their local office so it has the opportunity of seeing the comments the members make in their notice of decision. From time to time we do find that because the law is what it is, we have to make a decision a certain way, either pro or con.

We find that due to the technicalities or due to the lack of appropriate evidence, the decision is really going the wrong way. By the wrong way, I do not mean necessarily against the appellant. It could go for the appellant. I think the ministry picks that up and has from time to time taken steps.

There have been changes. For example, single fathers have become eligible. The minister has eliminated the difference between permanently unemployable rates and disabled rates. A woman can now be granted an allowance as a permanently disabled person in addition to her husband's benefit. In other words, if the husband is already on a benefit, the wife was normally a dependent deemed to be healthy, but the rates have now changed to allow a separate appeal or separate consideration for the disabled spouse or permanently unemployable spouse.

I think these are all the result of cases. Mr. Fulton can elaborate on the information with the rehab situation.

Mr. Fulton: It is fair to say, Mr. Johnson, that the board has, in effect, broken new ground and made a decision that was a complete reversal of the policy of the family benefits branch and the vocational rehabilitation services branch. As a result of that decision being binding on the director in either case, the policy changes. That is all to the good because we make our decisions based on the law and our interpretation of the law.

That has happened on a number of occasions. I think the policy with respect to foster parents' allowance is an example. The government income maintenance branch had some rather artificial rules they used. One of them was that if you were the adoptive father, you were automatically out. That never made sense. It did not appear to be the law. We had some decisions on it and the end result is they changed their thinking about the policy guidelines for family benefits, general welfare assistance and vocational rehabilitation which go to all the various sections of those three branches. We have noticed over the years that they have incorporated the board decisions into that thinking.

The vocational rehabilitation services branch has changed its policy on a number of occasions as a result of board decisions. In my view, those decisions were based on the law or

they had been appealed to the Divisional Court, and the Divisional Court made the law and these various branches, including vocational rehab, had incorporated those in their thinking.

Mr. J. M. Johnson: They changed their policy how?

10:50 a.m.

Mr. Fulton: They changed their policy by saying they would provide funding in a particular case where they originally had no intention of providing funding. The whole area of children with learning disabilities, to a great degree, evolved as a result of decisions made some five, six, seven or eight years ago, emanating from the Social Assistance Review Board and worked its way through the Legislature. Back in 1981 they made some changes in the legislation which officially recognized that, although it might be artificial, a child with a specific learning disability could be funded under the Vocational Rehabilitation Services Act. Those things and the changes of policy came about to some degree as a result of board decisions and decisions of the Supreme Court of Ontario.

Mr. J. M. Johnson: Mr. Fulton and Mr. Strauss, I think that is the point I would like to follow up. This committee is set up to hear boards and commissions, and we hope that out of this experience we will make some recommendations to the government as to how changes should be brought about in certain boards and commissions.

I am thinking of the mandate. I realize you have to operate within your framework, but the thing that bothers me is that on occasion you run into a frustrating experience where you cannot do anything. Everybody agrees it is wrong, but no one seems able to change it. If that happens time and time again, surely there has to be a mechanism to address it.

An example I would like to use is the thought that we have 23 members on a board who hear cases time after time that may be repetitious, and it dawns on everyone that there is a drastic inequity in certain cases. Instead of just being able to refer it to the ministry and maybe pull it out of certain hearings, would there not be some way--maybe the mandate has to be changed--that your board or commission would be able to say, or maybe once every six months you could get the members together and they would say, "This has happened repeatedly." If most people agreed it was a real problem, then could it not be taken a second step? Could a recommendation not be made that a change should come about?

Mr. Strauss: There would be. There is.

Mr. J. M. Johnson: No, but in individual cases. Then the ministry has to make the determination if indeed it warrants a change. Do you have your 23 members agree that certain changes should come about?

Mr. Strauss: In the law?

Mr. J. M. Johnson: Yes.

Mr. Strauss: We have never done it that way.

Mr. Fulton: We really have no scope to do that.

Mr. Strauss: But if there is a consensus, if, for example, enough members at our semi-annual meeting, which we do hold, as I mentioned earlier, point out that there really seems to be some inequity or some difficulty or some ambiguity in the law that it really would be helpful to clear up, we certainly transmit that information to the ministry. I do not think we can be put in the position of making the law, other than judiciously interpreting it.

Mr. J. M. Johnson: I know what you are saying. I think it comes about on an individual basis. Out of certain cases, something comes about. What I am suggesting is the feasibility of the 23 members sitting down together on occasion and asking: "What has happened in the last three or four months that is a common denominator that appears to be constantly coming up? Maybe instead of having all these hearings, we should resolve once and for all that we agree this should be changed." Would that not make it easier on everyone?

It goes beyond what you are likely to be able to do, in a sense, but the same thing is happening because officers are making the determination on an individual basis.

Mr. Fulton: We do not have that mandate, but to give you a specific example, not very long ago we used to have a number of cases where the director of the income maintenance branch said a person was neither permanently unemployable nor disabled, so he was out--no benefits. Then it would come before the board. We would hear the evidence. There would be some medical evidence; there would be other extraneous evidence. Our decision would be that the person was permanently unemployable and we would direct the director to grant an allowance to that effect.

That happened a number of times. Then the person would maybe appeal the decision and say, "I am not happy with the permanently unemployable; I want to be considered disabled." Then we would have to go through that appeal.

What happened not that long ago, as I am sure you are aware, is that the government changed its whole thinking on that and said, "It does not matter whether you are permanently unemployable or disabled, you are going to get X number of dollars," and it moved up the permanently unemployable. I think that came about not simply because of the board decision but because the government had had enough decisions along that line that they considered it to be an artificial distinction, so they did away with the artificial distinction.

Mr. Lupusella: Keep in mind that we raised the issue of the definition of "disabled" and "permanently unemployable" several times in the Legislature, and the guidelines have been changed.

Mr. Fulton: They are changed. That is one instance where the government did take some action as a result of a number of things, and one of the things, I would think, would be some of these decisions going back to the director, where we could see there was not any real justification for that artificial decision.

Mr. J. M. Johnson: The point I am trying to make is that when your case is all written and there is clear documentation of everything, is the bottom line saying something specifically? Does anyone ever draw them all together?

Mr. Strauss: No, but if a particular kind of case presents a problem, and if we find we really are constantly affirming cases because that is what the law requires but we think it is wrong, then it would come up and would be communicated to the ministry that we think it is wrong in terms of social standards or current economic conditions or whatever.

If it is a matter of procedure, how we would deal with a case, then we change that as soon as it becomes evident. An example is what do we do when there is no report from the director? That sometimes happens. As you know, the law provides that the director or the municipality can make a submission in writing to the board and that becomes a prima facie case, even if there is no personal representation. Occasionally, for whatever reason, it may be Canada Post, we do not get a copy nor does the appellant.

We come to a hearing and there is no representation from the director and no report. All we have is the evidence from the appellant. We must go on the evidence we have. If the evidence is very sketchy from the appellant but is in his favour, we must make a decision in his favour even though we may believe, for whatever other reason, there is more to the story and we really are perhaps finding unfairly against the director. On the other hand, if the appellant provides evidence that shoots down his or her own case, we will find appropriately.

That was a procedure that was changed as a result of our finding a number of cases where there was no report and what the members were inclined to do from time to time was to say, "Well, the director would not have made this decision without adequate medical evidence. The person did not give us real evidence to show how sick he is; therefore, we will affirm the decision."

That was wrong. As a result of coming across a number of these situations, we changed the procedure and the guidelines for the members to say you must only go on the basis of the evidence you have, and if you only have evidence from the appellants, unless they shoot down their own case, you have to find in favour of the appellants.

Mr. Fulton: But to get at what Mr. Johnson is talking about, as a result of those decisions, the director changed his policy. When they had the decentralization of the income maintenance branch, it was quite tough for a lot of those people to prepare reports or submissions for the board and they were

laggard. They were tough to get them in front of the board. We found out there had been a number of these cases in which we granted the appeal simply because the director did not have the report or representation. The director started coming into line and getting reports in on time so they could be dealt with.

Mr. Strauss: Also, the difficulties with the medical profession has caused the ministry to re-examine the operation of the medical advisory board. I am not familiar with the details, but I believe there is something happening there which it is hoped will improve the process, certainly as far as it affects our board, but may even affect the decisions initially which would obviate a need to appeal to our board. That is probably due to the experience and the communications we have had informally with the ministry on those cases.

11 a.m.

Mr. Fulton: Another point on that is at one time when the reports used to come from the director to the board on these permanently unemployable or disabled cases, there was no excerpt from the report of the medical advisory board and the Social Assistance Review Board which put it in the position of saying, "Here is a report from the director which says the man is neither permanently unemployable nor disabled. That is our opinion."

It is not very much to go on. It is not very much to consider a prima facie case. We had discussions with the branch a number of years ago and, as a result of those discussions, what they do now in disabled cases or permanently unemployable cases--they still keep the distinction--is they put an excerpt from the report of the medical advisory board which leads you to believe the person is neither disabled nor permanently unemployable.

That was a change that came about. We originally asked if they would affix copies of the medical reports from the doctors. They determined it was not proper to do that because there might be something in the medical reports which the appellant himself should not see--it is cancer or something and they do not want him to know it. If he has cancer, I guess he should be given an allowance. That was a change that came about as a result of the procedures of the board.

Mr. J. M. Johnson: The memorandum of agreement with the ministry, or at least the mandate you operate under, clearly establishes the fact you should be independent of the ministry. It is a narrow line as to when you start exceeding that. Are you satisfied the concerns your members bring to you are being passed through the system?

Mr. Strauss: It is up to me to do it and I hope I am doing it well.

Mr. J. M. Johnson: You are satisfied no changes are necessary in the mandate to achieve the purposes.

Mr. Fulton: No, I do not think so. I think it functions quite well.

Mr. J. M. Johnson: My last point is on the number of members on the board and the backlog that arrives on certain occasions. I think you mention in 1982-83 there was a backlog of reports in the second half--March 1983. Would it be feasible to have a panel of former members on standby? You do not want to increase membership of the board, but if you had a panel of members who were in good health who could be called on in case of a situation--it might be only six, eight or 10 weeks--would there be any sense in that?

Mr. Strauss: They have to be members of the board to make it legal.

Mr. J. M. Johnson: It is a three-year appointment. If a member could stay on this panel three years after his appointment expired then, in the event you needed three, four or five people, you would have a group to call on.

Mr. Strauss: They would need to be re-appointed and many of them are. We now have the possibility of having 31 members. At the moment, there are only 24, including me. Whether these are former members who are therefore experienced--I think that is the point you are making--

Mr. J. M. Johnson: What I am thinking about is not just for your board, but for any board. Rather than increasing the number for the sake of one month, or a six, eight or 10-week period in any year, it would be appointing members to serve three years plus be on standby for a further three years if they agreed and if health permitted. Then when you needed someone, it would simply be a matter of calling on this group of eight or 10 people.

Mr. Fulton: It is not a bad thought. It is analogous to the Supreme Court where they have judges who are supernumeraries. They are basically retired, but they are supernumeraries and they continue to act at the request of the Chief Justice. It is not a bad comparison. It probably would be of some help.

Mr. Rotenberg: Just when you have a backlog.

Mr. Fulton: Yes.

Mr. Rotenberg: Which you have all the time.

Mr. J. M. Johnson: Do you see some disadvantage to it? In my opinion, it would have to be someone who has had the experience so you are bringing in someone who likely sat for two terms. It would be a matter of using him three or four times a year.

Mr. Strauss: If they are willing. It so happens that the members who are appointed to the board usually want to work, or if they have had enough and want to retire they do not want to work

at all. Having some experienced members on call for the occasional hearing would be fine, but as I pointed out earlier, the backlog really is not due to the number of members.

I do not want that to be laid at the feet of the members of the board. At times, it happens we have four members on vacation at the same time and we are a little strapped for members, but that does not happen often. The backlog is due to the rest of the system because of the way we have to write up the decisions and the notice we need to give.

If I may transgress for a moment on your question, on this business of backlog, which is the one that concerns me most, the legislation really divides the 61 days as normally referred to into two portions. It says that within 21 days of receiving a request for a hearing, I, the chairman, must send out a notice of hearing. Within 21 days I must fix a date beyond the 21 days. From the date of that notice to the date of decision shall be 40 days. Clearly, if there is a request for a remand or rescheduling at the request of the appellant, that is inserted, and really we should count from the notice of request for hearing to the first notice of hearing--that is, the 21 days--and then from the last notice of hearing to the decision, 40 days. In between there could be six months at the request of the appellant.

The 40 days from the last notice of hearing to the decision includes 21 days of notice, because people need notice. The appellant needs notice, his lawyer needs notice and the respondent needs notice. So we have used up 21 days normally, more or less, of those 40 days before we hold the hearing. Then the hearing, let us say, is held on a Tuesday in Thunder Bay. The members do not come back to Toronto until the following Monday, at which time they present their cases and consult with each other or whatever, so we have lost another six days.

There is very little time to get the stuff written and typed, and then we have to wait for the member to sign it, because it is only a decision when the member signs it. It does happen occasionally that when the full story has been written up more comprehensively, the member says: "Hmm. I wonder if that was the right decision." It does not happen often, but it does happen occasionally, and the whole thing starts again.

So there is not really 61 days; there is a relatively short time. I do not mind the legislation being what it is, but I think we will not make it very often in the 40 days, for the reasons stated. We do our best, mainly because, whatever the mandate was or whatever the legislation was, we would try to get the decision out as quickly as possible, recognizing that it deals with people's livelihoods.

Mr. Fulton: The board meets, I believe, more than 90 per cent of the time in the 21 days from when it gets in the notice to when it gets out the notice of hearing because that is an internal function; it can be handled within the office. But there is a lot of delay, which the board really cannot control. If there is criticism, I think you might say it is criticism of the system, and I do not know what to do about that.

Mr. J. M. Johnston: All right. Just one last shot at this point to see if any there is any merit or feasibility in it. It was my feeling that rather than increase the membership of this or any other commission, we surely could make some use of the expertise these former members have acquired during their years of service at no cost. If you do not need them, you will not use them, though. In a case of some emergency--if three, four or five people happen to be in an accident or something--you would have somebody to call without a drastic change in legislation. I assume a minor change would achieve the purpose.

In your opinion as chairman of the board, does it have any merit?

Mr. Strauss: Yes, I think so. Certainly I can think of this afternoon. We happen to have one member sick, and there is one member sitting alone this afternoon who would rather have some support. We have no members available because they are all out in the field. If this committee happens to get through before lunch, I will sit in with the other member, which I do not normally do. But certainly it would be helpful to be able to call up somebody who lives in Toronto and ask, "Can you help us out this afternoon?"

Mr. Epp: You should offer him David Rotenberg's services.

Mr. Strauss: If Mr. Rotenberg is appointed to the board, we will be glad to have him.

Interjections.

Mr. Breaugh: He is just hanging in there for a judge's job.

Mr. Rotenberg: No, I am not eligible for that.

Mr. Mancini: If Mr. Rotenberg runs under the redistributed boundaries, he will be appointed to the board.

Mr. Rotenberg: The new boundaries are a better for me than the old ones.

Interjections.

Mr. Mancini: I am surprised at how legalistic the Social Assistance Review Board is. I was not aware that you had to give detailed responses for answers that were not favourable to applicants other than to say, "No, you do not qualify."

Could you inform the committee what the legal costs of the board are per year?

Mr. Strauss: I could look it up, but not all cases go to a lawyer.

Mr. Mancini: Your total legal bill for a year.

11:10 a.m.

Mr. Strauss: I can only give it to you including the court reporters whom we have for some cases. I cannot give it to you broken down. Just a moment.

Last year--that is the fiscal year 1982-83--we spent nearly \$127,000 on legal fees. In round figures, we spent \$127,000 on legal fees. That includes court reporters and Mr. Fulton's services.

Mr. Mancini: What do you estimate the court reporters' bill would be?

Mr. Strauss: I am afraid I do not have a breakdown, sir.

Mr. Mancini: Do you have a rough guess?

Mr. Epp: Would it be \$10,000?

Mr. Strauss: Oh, no, more than that.

Mr. Mancini: Or \$25,000?

Mr. Strauss: Roughly \$20,000 to \$30,000.

Mr. Fulton: I might say on the question of court reporters that the former chairman of the board and I appeared together four, five or six years ago before the procedural affairs committee. The committee approved of the function of the board and its procedures pretty well. It particularly liked the idea of the Monday meetings of all the members of the board and it liked the half-yearly meetings. The only real suggestion the committee had was that we could try to have more official court reporters, because it thought the appellants would not be getting a fair shake unless there was an official court reporter there.

We discussed that at the time and we thought we were really talking about a lot of money for official court reporters when there may be something in the order of 4,000 cases a year and, of those 4,000 cases, only 14, 15 or 16 a year go to the Divisional Court on appeal, where it would be a distinct advantage to have a court reporter.

As a result of that suggestion at the time, which is going back five or six years, the board decided that in cases where there appeared to be a fairly complex issue, we would have an official court reporter. In cases where there was a reconsideration hearing, with three different members than the members who had attended the previous hearing, there would be a court reporter. That pumped up those fees a bit, but we thought it was more expedient not to get into the realm of having official court reporters present on the majority of cases.

Another facet of it is that we anticipate vocational or rehabilitation services appeals are going to become fairly legalistic and it does make sense to have an official court reporter there. To a great degree, the board does arrange for a court reporter for those hearings.

The board also adopted a different tactic a few years ago. Rather than have official court reporters, the members would be armed with mechanical devices and arrange to have a transcript done at the time they were holding the hearing. We found it was too complicated, too hard for the member to try to handle that as well as listen to the testimony and get some kind of idea of what was going on.

Mr. Breaugh: You could not use push buttons and listen at the same time?

Mr. Fulton: It is tough to do. That is what has happened with the board, though.

Mr. Strauss: And very often the microphone did not pick up everybody, or somebody forgot to say who he was and you could not identify on the tape who it was. It really was not worth it.

By the way, if we were to rely on a transcript of every case before we wrote up the decision, the delays we are talking about would extend to another six weeks. As Mr. Fulton indicated, a transcript is really only useful, apart from appearances' sake, if the case goes to a higher court. Normally, when we have a court reporter, we do not ask for a transcript unless it goes to a higher court. Even though we only have court reporters, let us say in 10 per cent of the cases, and that is a number I am picking out of the air, most of those turn out to be wasted money because they do not go to court. Therefore, we never get them transcribed and they need not have been recorded in the first place.

It turns back to the formality and the intimidation of an appellant. Having a court reporter there who takes down every syllable that is uttered is not always in the interests of making the thing comfortable for the appellant, in my opinion.

Mr. Mancini: Having estimated the court reporter costs at anywhere between \$25,000 and \$30,000, that leaves approximately \$100,000 a year in legal-related costs to the board. Is this paid out on a retainer-type fee?

Mr. Strauss: No, on the number of cases. Maybe Mr. Fulton wants to elaborate on it.

Mr. Mancini: I would like to hear some of this from you too if you do not mind.

Mr. Strauss: Mr. Fulton submits a detailed statement every two or three months, itemizing exactly what he did for a case. A few miscellaneous meetings or telephone calls with the chairman are not detailed, and we have an agreement as to the rate he would charge when he goes to court.

Mr. Mancini: What are those agreements, please?

Mr. Strauss: I did not bring copies with me.

Mr. Mancini: Maybe Mr. Fulton might know.

Mr. Fulton: The charge per hour is \$90. The charge for a day in court of actual court time is \$1,000. Waiting time which occurs sometimes when you are--

Mr. Mancini: Can you go a little slower? I am not a lawyer.

Mr. Fulton: Okay. It is \$90 per hour.

Mr. Mancini: That I understood.

Mr. Fulton: And \$1,000 per day for an actual attendance in the Divisional Court when the case is being argued.

Mr. Mancini: Does it matter how long the day lasts?

Mr. Fulton: That rate is per day. But in the past 11 years, I think only three or four cases have gone more than one day. Then there are times when you simply sit there waiting for court to get to your case. On that basis, the charge is \$250.

Mr. Mancini: So it is \$250 if the case is not heard?

Mr. Fulton: No. It is \$250 when waiting for the case to be heard. Sometimes the case is not reached and you spend a whole day waiting; it is brought on the following morning.

Mr. Mancini: Okay.

Mr. Fulton: Something is vetted through the Ministry of the Attorney General and we have some documentation on that.

Mr. Strauss: Also, we can count on half the fingers of one hand the number of times a year Mr. Fulton appears in court where the \$1,000 fee applies. There were only 19 cases in the last fiscal year that even dealt with us.

In most cases, Mr. Fulton advises me he does not think it is necessary for the board to be represented because, of course, the other respondents, the ministry or the municipality also involved in the case, has its representation. Our board really takes no position pro or con on the outcome of the case. We would only appear if it is a question of our jurisdiction which is not challenged very often. So the number of times Mr. Fulton actually appears in court is very, very few.

Mr. Mancini: I was more interested in the global figure, plus the breakdown--

Mr. Epp: That is \$200 more than Donald Macdonald was getting for chairing the Royal Commission on Economic Union and Development Prospects for Canada on which there was a lot of consultation across the country.

Mr. Rotenberg: Yes, but Donald Macdonald's net was his gross. He got paid and the commission paid for his staff. If you hire an outside lawyer, you pay him so much a day and he pays his

staff, rent and overhead. The difference is with \$1,000 a day, he has to pay his staff out of his pocket.

Mr. Epp: The staff is getting \$200 a day?

Mr. Rotenberg: I do not know how much he pays his staff or how much his overhead is; that is his office.

Mr. Fulton: On the matter of appearing in Divisional Court, the Divisional Court only came into existence around the year 1972-73. It really did not have its own procedures formulated very well. At the beginning for the first challenges to the board, the chairman at the time and I thought it was necessary for the board to be represented to give it some guidelines. It pretty well got over that problem. Now the Attorney General's branch as well as the ministry carry the burden most of the time on behalf of the board. If I may say so, they do so quite well.

Mr. Mancini: That basically is my next question. How much legal assistance do you get from the ministry, and do you have any idea of what the cost--

Mr. Fulton: None.

Mr. Strauss: None, intentionally. Instead of retaining a private legal firm, if you were to suggest--

Mr. Mancini: I am not suggesting anything. I am just asking questions.

Mr. Strauss: I am sorry, I apologize. We do not. We have no contact intentionally with the legal staff of the ministry or the Attorney General because they represent one of the parties to the hearing. It is part of our desire to be independent and to be seen to be independent. So we do not deal with the legal staff except when they contact us on behalf of their client.

Mr. Mancini: You do not have any full-time lawyers on staff?

Mr. Strauss: No.

11:20 a.m.

Mr. Mancini: Have you ever given that consideration?

Mr. Strauss: Yes, only very briefly. But the government has a standard practice--for good reason, I believe--that all lawyers who are civil servants are members of the staff of the Attorney General. Therefore, a member of our staff who would be a lawyer would not be independent of the government and would compromise our independence.

Mr. Mancini: I see.

Mr. Rotenberg: It would be more expensive if you hired a lawyer full-time as support staff than what you are paying for outside.

Mr. Strauss: Quite likely, actually.

Mr. Mancini: I want to ask--

Mr. Rotenberg: A lawyer can make \$1,000 (inaudible).

Mr. Epp: David, if you believe that, I will sell you the Taj Mahal. If you really believe that, I will go and list the Taj Mahal and sell it to you.

Mr. Rotenberg: If you are going to pay a lawyer \$50,000 to \$60,000 full-time, plus \$20,000 for staff, plus rent, phone and the whole bit, you are going to be over \$100,000.

Mr. Mancini: You are dreaming.

Interjection.

Mr. Mancini: Moving on to another point I was concerned about, it states somewhere in the researcher's report or in your annual report, 1982-83, that it is not the policy of the board to have one-member panel hearings.

Mr. Strauss: I do not think I made that statement because it would not be true. We do not do it very often because ideally I like to see the checks and balances and two people hear more than one, but we do have one-member hearings.

Mr. Mancini: Yes, I know. It was pointed out by the researcher that this was a concern, having a one-member panel.

Mr. Fulton: Under the act a review can be conducted by one member of the board. The question arises as to whether this is fair, given that any decision by a board member is based on his or her interpretation of the facts. Two or more members would bring a more balanced perspective to a particular case.

Mr. Strauss: I agree. That is why we do not have one-member hearings very often, but in some cases we do that in order not to delay the process. For example, if we have scheduled a hearing in London, Ontario, for a particular day and one of the two members is sick, I would rather the one member who remains to hold the hearing, if he or she can, rather than put it off for another three or four weeks, which would delay the decision.

Mr. Mancini: We do not have any idea or you could not inform us, could you, as to how many one-member panel hearings we have?

Mr. Strauss: Again I would guess four. This year there have been nearly 5,000 cases.

Mr. Mancini: Ten per cent, 15 per cent?

Mr. Strauss: No, no.

Mr. Fulton: Oh, no.

Mr. Strauss: Nothing like that. I would say three or four at the most; it is very infrequent. The members do not like it either because they find that it is unduly onerous.

Mr. Mancini: We talked about regional panels. Who serves the southwest region?

Mr. Strauss: The whole board. We do not have regional panels. All the members of the board are available to serve in any part of Ontario. Every Monday they come in and they get their travel instructions, if you like, for that week and they also see what is tentatively planned for the next two weeks after that.

Mr. Mancini: Has there been a pattern established?

Mr. Strauss: No. A member who lives in Ottawa may be one member of a team serving Windsor that particular week and he may be in Renfrew the next week or in Cornwall the week after. There is no real consideration about where the members come from, except to facilitate travel schedules. It may be that we will hold a hearing on a Friday afternoon in Ottawa and assign that to the member who lives in Ottawa in order to be able to fit that hearing in rather than wait for the following week because he has to take account of travelling home and stuff like that.

Mr. Fulton: There is one other area of preference and that is we have four members on the board who are perfectly bilingual in French and English and they take most of the cases up north or in Ottawa where French is required to be spoken by the appellant. The appellant has a choice when he files his appeal to the board. He is asked if he will be heard in French or English and, naturally, we assign a French-speaking member.

Mr. Sheppard: Mr. Chairman, do you have any other members who speak other languages? Do you have to go to Italian or --

Mr. Strauss: We happen to have an Italian-speaking member, a Portuguese-speaking member and a German-speaking member, but that is coincidental. The appellants are advised they may bring an interpreter with them if they can, if they feel they need to.

Under the Charter of Rights, we have been informed we now have an obligation to provide an interpreter if asked. We do not provide it as a matter of routine because, frankly, it becomes expensive and it often is not necessary. If a person comes to a hearing or advises us in advance that he only speaks Greek or whatever, we would now arrange for an interpreter.

Mr. Rotenberg: Would you hold a hearing in any other language than English or French?

Mr. Strauss: If the appellant only speaks something else, we have to get the evidence in that language. Of course, the members do not normally hold the hearing. The case is certainly always written up in English.

Mr. Fulton: I do not think we have ever--

Mr. Rotenberg: The Italian-speaking member--

Mr. Strauss: There is always the other member. We do not happen to have two Italian-speaking members. The chances are our Italian-speaking member might preside in that case and a non-Italian-speaking member would be his partner. We would currently expect him to act as the translator.

Mr. Fulton: That is the area where we have run into trouble in the past when there is a non-French-speaking member and a French-speaking member. You get there and find they want to have the hearing in French. The French-speaking member translates for the other member, which is absolutely no good because not only does the legislation require they understand all of what transpired, but it does not make common sense. We now would put two French-speaking members on.

Mr. Mancini: I was checking the annual report and I noticed Windsor has the highest number of appeals heard outside Metropolitan Toronto. Why is the director so tough on Windsor?

Mr. Strauss: I do not think it is necessarily the director being tough on Windsor. You notice these are not broken down by program. Windsor was a high unemployment area, or still is, but particularly was last year. Therefore, I expect the largest number of those cases would be general welfare assistance for people who have run out of unemployment insurance and are unable to find a job. As there are more applications for assistance, there will be an increase in the number of refusals and, therefore, an increase in the number of appeals.

Mr. Mancini: The director is not being unnecessarily rough on Windsor. Is that what you are saying?

Mr. Strauss: I have no reason to believe that, but then I do not look behind the statistics.

Mr. Mancini: You are right; I should say the government. I should not point at the director.

I want to discuss the rehabilitation question for the disabled. I have been getting more and more work in this area where people who feel they are disabled for one reason or another are not qualifying for benefits. The most recent case I had was last week where a young boy about 18 years old was attending the Robarts School Regional Centre for the Hearing Handicapped in London. His father is unemployed and they made an application for the boy since he is 18 years old, and he was turned down for assistance. Is this application way out of line or are some of these granted?

Mr. Strauss: You mentioned the Vocational Rehabilitation Services Act, which would be services to help him become employable, or did you mean a disability--

Mr. Mancini: I was trying to work the both of them in together. Since he was not going to receive any funds, there did not seem to be any eagerness from the rehabilitation branch to say, "Let us try to help him find a part-time job or something."

Mr. Strauss: I am guessing. I do not know anything about the particular case.

11:30 a.m.

Mr. Mancini: I am just want to know how the system should work so I have a better idea.

Mr. Strauss: Vocational rehabilitation services are to provide training or equipment, or whatever, which would help somebody deemed to be disabled to become employable.

Mr. Mancini: That is the key word--training.

Mr. Strauss: That is right. They do not provide an allowance. The allowance comes under the Family Benefits Act. The maintenance allowance, the food and shelter, would not come under vocational rehabilitation services. If somebody is a beneficiary under the Vocational Rehabilitation Services Act, he is normally also eligible for an allowance under the Family Benefits Act. If, for some reason, he ceases to be eligible under the Vocational Rehabilitation Services Act, the other allowance may cease but he may also continue to be eligible for other reasons.

Mr. Mancini: But it usually goes hand in hand. One goes hand in hand with the other in the normal course of events.

Mr. Strauss: That is right, but he may need to reapply. Let us say vocational rehabilitation services finds he is not benefiting from the training and had concluded there is no point in continuing to fund him at some special training course. Then it will terminate that benefit and his family benefit support allowance will automatically end. The person could, and probably should, apply for continuation of the allowance because he or she is permanently unemployable.

Mr. Mancini: Let us just use this case as an example. A young man is now 18 and may or may not want to continue on at the John Roberts school, but because of severe hearing impairment affecting his speech skills and other things there is no question he will have a difficult time getting a job. What would the vocational rehabilitation branch be able to do for him?

Mr. Strauss: I am sorry, that is outside my field. I do not know what their range of services are. I do not know what he was denied. Was he denied funding for something he needed or was he denied the allowance which goes with it under the Family Benefits Act because he was living at home?

Mr. Mancini: That is right.

Mr. Strauss: The latter?

Mr. Mancini: Yes.

Mr. Strauss: If he is under 21 and living at home, he may not be eligible for an allowance because he is not a person in need. He is not in need because he is attending an educational institution and so on. The legislation becomes a little complex and I have not brought it with me.

Mr. Mancini: Okay, that is fine.

Table 8 shows that individuals 16 years of age and under made up 1.5 per cent of the appellant cases. I was wondering if you had stats that might help us determine how many of this group actually receive family benefit allowance or general welfare allowance.

Mr. Strauss: I do not know how many are receiving allowances because we only hear the appeals. You will notice that of those 65 cases in total, 54 are under the Vocational Rehabilitation Services Act. I would guess most of those are learning disabled children where the issue was whether or not the ministry should fund special schools as opposed to providing for the child in the school board operation.

So there are only two cases of 16 and unders receiving FBA. They are likely to have been--I am just guessing--young girls who have a mother's allowance problem. The GWA may be a young person who is not living at home but claims there are special reasons for this. The legislation provides that the local administrator of general welfare assistance may grant assistance to a person under the age of 18 who is not living at home if the circumstances warrant.

Let us say it is a young girl who is being sexually abused by her stepfather or something like that, in which case there is a good reason why she should not be living at home. On the other hand, these days there are a lot of young people who leave home because they do not like rules that the rest of us might think are reasonable, and they might therefore be refused because the home is available to them if only they would avail themselves of it. If they ask for assistance under the General Welfare Assistance Act, they are refused and appeal to us.

Mr. Mancini: I would assume that most or, I would hope, all young people who are in the terribly unfortunate position of being abused would also be under the guidance of the local children's aid society and/or the Ministry of Health; certainly no one would want in any way to deny them easy access to assistance.

But I am quite concerned about the latter, the suggestion--it is not a suggestion, actually; it really does happen--that young people move out because they do not want to live under what we would consider normal and reasonable rules. This last year four such instances were brought to my attention. They were all granted assistance, so they did not have to make

appeals. But if such appeals were made, I was wondering whether or not the members of the board would take such matters into consideration. Is there a policy guideline on this?

Mr. Strauss: It may be difficult to define what is or is not a reasonable circumstance. Obviously, the abuse situation, I think most members of the board would agree, is a justification for not living at home.

I do not know how I would draw up a guideline to members to say, "If the child is supposed to be home by 11:30, it is reasonable; if she is supposed to be home by 9:30, it is not reasonable," if that is the issue. There is such a variety of circumstances. I think the members just have to be allowed to assess the situation as they find it, and I hope we make the right decision.

Mr. Mancini: I understand that you cannot draw up specific guidelines that would give a time, date and place and all that, but I was wondering if the members of the board had brought this up during their discussions, if this is a matter--

Mr. Strauss: It is not a very large number of cases.

Mr. Fulton: It is very infrequent.

Mr. Strauss: It is a very infrequent situation.

Mr. Mancini: How often do the members sit per month? Is there an average?

Mr. Strauss: On average four days a week. Some members sit five days a week and some sit three days a week, but the average is four or even four and one half.

Mr. Mancini: So it is pretty well a full-time job.

Mr. Strauss: With some gaps. They tend to take vacations.

Mr. Lupusella: Mr. Chairman, I have a few questions in relation to the activities of the board in 1982-83. It appears that the board received some 4,920 requests for a hearing. Then on the addendum we have in front us there is a breakdown: appeals granted, 529, which is 22.3 per cent; appeals denied, 1,622, or 68.6 per cent of the total case work.

My concern is, first of all, among the cases the board hears on a yearly basis are you encountering problems created by social workers employed by the ministry that could have been easily eliminated and that it therefore does not make any sense to have appear before the board for a hearing in the first place? If this is the case, what are the general complaints of the appeal?

11:40 a.m.

Mr. Strauss: It would be surprising if there were not some cases where the personality of the field worker had a bearing on the outcome. People are human, so I am sure there are some.

Obviously, if we feel the wrong decision was made as a result of that, or as a result of anything else, we will reverse the decision and find in favour of the appellant.

If there is a flagrant case where we feel the field worker failed to do something he or she should have done, we will tend to point that out in our decision. For example, a person may be penalized in some way. Let us say an overpayment is created. Someone was paid an allowance during a time when he or she was really not eligible under the law, but the payment continued to be made because somebody slipped up badly in the ministry. We may very well say, "Yes, there was an overpayment, but we think it should be written off as an administrative error."

I cannot think of any other specific case. Sometimes an appellant will say, "My only problem is my field worker," and we will have to make a decision on the basis of the facts as they are presented to us and find accordingly.

Mr. Lupusella: Exactly. This is what I hear in my constituency office, that the field workers are causing problems. In 1977-78, for example, I remember a case of a field worker refusing to make the right recommendation to the ministry to grant payment of benefits and suggesting because some ethnic people have beautiful homes, they are not supposed to apply for payment of benefits. The field worker thought they had enough money because they kept nice furniture and nice homes, when it is part of their cultural background to have good homes. They worked but may have been unfortunate enough to be injured and, therefore, were excluded from the labour force.

I brought these cases to the attention of the minister and the problem was resolved. If there had been no involvement from my side, eventually these cases would have been appealed, which would mean more work for the board. When you are faced with these situations where problems are caused by field workers, do you bring the problem to the attention of the minister or are you just bound to the merits of the case and the system stops there?

Mr. Strauss: I would certainly not bring a case to the attention of the minister. If it was a flagrant case of abuse or something, I would informally advise the director or the municipality.

Our decisions are based on whatever the facts are. People's beautiful homes have no bearing on their eligibility if they have no assets and no income and meet all the other criteria. It is difficult to prove whether somebody's prejudice is the reason for their decision. Obviously, the person who is affected negatively by the decision may put it down to that.

I have had people come into the office to file an appeal and they want to see me. They say, "The reason I cannot find a job is I am a member of a visible minority." One man I have in mind is 56 years old. I cannot say that is not the reason, but at the same time many other 56-year-old people with limited skills cannot find a job these days. I cannot prove it, and I would be very careful about invoking any other channels.

Mr. Lupusella: I used to appear before the Social Assistance Review Board in the past, but now I bring cases directly to the attention of the minister. Most of the cases are positive for the claimant, not just because of my involvement in the process with the minister, but because the minister delegates someone to look into it and the decision is favourable to the claimant.

One thing that alarms me is that a lot of people are receiving welfare assistance from the municipality. I get the feeling they are eligible for family benefits, and I have a lot of cases like that. Their cases have been prolonged for years. The field worker and the social worker from the municipality in that particular case do not make a referral to family benefits. For example, I have a couple, extremely sick, who have been receiving welfare from the municipality for two years. I got involved and they got family benefits immediately.

Are you encountering the same situation?

Mr. Strauss: We tend to encounter it the other way around. The municipality is financially interested in getting rid of the case because the municipality pays 20 per cent of the welfare cost. There is a financial incentive to the municipality in total, never mind the individual field worker, to get that case into family benefits if it can.

It is, of course, not necessarily the obligation of the field worker of the municipality to make an application. There is nothing to stop the person from doing so if he knows about it. The problem usually arises that inadequate or inappropriate medical evidence is provided to allow the director of family benefits to grant an appellant an allowance. That is where many of these situations hinge.

There are cases where we are granting or reversing the decision of family benefits in ordering that the allowance be paid because we find that somebody has been on general welfare assistance for a number of years, is now 58--I will use that age because that is our line--and is unlikely to find another job, has limited education or something like that. We say, "I note that the person has been on general welfare assistance for a number of years. I note he or she has limited education. I note that there are some medical problems which on their own might not make them ineligible for employment." We do that.

Mr. Lupusella: I have been faced with cases where several medical reports have been submitted to the family benefits structure and family physicians have been screaming because there was a further request from family benefits for another medical report. Sometimes physicians have been even reluctant to fill out the special form. I have got involved in the process. Either it got lost or maybe the field worker was meticulous. I really do not know, but I encounter these cases.

Mr. Strauss: As I mentioned earlier, although it is not a field with whose details I am too familiar, I think the ministry

is looking at the process for medical cases and is making some changes which will streamline and facilitate it, which will cause more cases to be granted before they come to the Social Assistance Review Board.

Mr. Lupusella: Let me tell you the latest case, which is going back two months ago. A family was receiving welfare assistance for five years. The wife was extremely sick. Actually, she could not even go out to do the shopping. The husband had been receiving a pension from the Workers' Compensation Board for several years. He never went back to the labour force. I have been trying to get them into family benefits. I was able to succeed with the wife but not with the husband. One is receiving welfare; the other is receiving family benefits.

Mr. Strauss: Again, not knowing the case, I think I should be careful to comment on it. Of course, they may be ineligible for an additional allowance due to the total income. Income from any source, including workers' compensation benefits, Canada pension and so on, is treated as income and is offset against any allowance to which they would be entitled under the Family Benefits Act.

I do not know that particular case. It may be a lack of appropriate evidence. Quite frequently appellants come to us and say, "I have been granted a benefit under the Workers' Compensation Act" or "I have been granted a disability allowance under the Canada pension plan, but family benefits has turned me down."

The criteria are somewhat different. Whether they should be or not, I do not know.

Mr. Lupusella: I understand that, but this is not the case.

Mr. Strauss: Then I do not know the answer.

11:50 a.m.

Mr. Chairman: May I ask, before Mr. Epp goes on, if it is the wish of the board to continue on this morning for as long as there are questions? In other words, we would go into the lunch hour and finish off this morning or noon, or is it the wish of the committee to break off at 12 o'clock or 12:15 p.m. and come back this afternoon?

Mr. Hennessy: How long would we take?

Mr. Epp: I have 10 minutes or 15 minutes at the most.

Mr. Hennessy: It does not matter to me.

Interjection: The chairman wants to get to work.

Mr. Chairman: Yes, that is correct.

Mr. Epp: Besides, we are paying Mr. Fulton \$90 an hour. It is well-merited but we could just cut the provincial deficit by about half if we cut it off at the noon hour.

Mr. Chairman: Perhaps we can just carry on until we are finished, rather than coming back at two o'clock. Mr. Epp.

Mr. Epp: Do you have a quota system in your ministry where people have to produce a certain amount under certain conditions?

Mr. Strauss: No.

Mr. Epp: I just thought I would ask that anyway. I have read about that in the paper being used by some governments. I just wondered.

What is the average number of days a member of the board performs a service? Do they get a per diem rate?

Mr. Strauss: Yes.

Mr. Epp: They are not full-time?

Mr. Strauss: No, they only get paid when they work.

Mr. Epp: What would be the average number of days they would put in per year?

Mr. Strauss: Per year?

Mr. Epp: Per year or per week. Give me per week and I can multiply by 52 or give me per year and I can divide it.

Mr. Strauss: I said earlier four days per week is the average. Some work five days; some work three days.

Mr. Epp: Four days is the average per week?

Mr. Strauss: Yes.

Mr. Epp: Do they get any other benefits aside from their per diem rate?

Mr. Strauss: No. Their travel expenses are paid on a reimbursement basis, as they would be for a civil servant. The same rules apply. They do not get a travel allowance. They have to turn in their hotel bills and their mileage, airplane tickets.

Mr. Epp: Is there a limit on what they can charge for meals and so forth?

Mr. Strauss: We set a guideline, as do most ministries. I have suggested that \$24 a day, including tips, for three meals is not unreasonable, recognizing they go to places like Ottawa and Toronto.

A member, of course, is on expenses when he is away from home. For the purpose of the expense account, the member's home locality is deemed to be his headquarters. If a member lives in Thunder Bay, and we do not happen to have one who is in Thunder Bay, but if he holds hearings in Thunder Bay, he gets his per diem and no allowance. Similarly, the members who are from the Toronto area do not get any expenses if they are here in the Toronto area. They only get the per diem.

Mr. Epp: I have a case of a particular person who is not getting benefits because she stays at home. She lives with her parents. She is disabled. She is in a wheelchair and so forth. The parents have threatened to put this child, who is over 18--I think she is 21 or 22--into a home because the government will not give any benefits because she lives at home.

Mr. Strauss: If she is over 21 the parental home does not enter into the picture that I am aware of. Under 21 and in grade school and so on, it is an issue, but I do not understand why a person, where the question of disability is not at issue, would be denied an allowance merely because she lives at home.

Mr. Epp: I guess they get some kind of allowance, but the allowance is less than they would get if they boarded out.

Mr. Strauss: There are differences in rates between what is called the profit-motivated boarder allowance and a nonprofit-motivated boarder allowance. If a person gets an allowance or a benefit and is residing with a member of the family, it is deemed that the family will not make a profit on the situation. They would be paying the heat and lights and so on anyway. Therefore, the rate is somewhat less.

Mr. Epp: The parents are arguing that they can just as well let the child be outside the home. Then, of course, the government would have to pay a higher rate. They think they have more than enough expenses with the child and they argued that the money they are getting should be equivalent to what you get when you are boarding them.

Mr. Strauss: There is a difference, and I have explained the rationale behind those rates. Whether the level is high enough or not is a matter that I really cannot assess; I have not done any studies nor do I think it would be proper for me to do so. But there is a difference in an allowance where the shelter cost is in a profit-motivated versus a nonprofit-motivated situation.

Mr. Edighoffer: It seems that one of the problems where you have a time lag in cases is that you just do not have enough board members and enough time for them to go out and fulfil their duties. Right?

Mr. Strauss: I hope I made the point that the number of board members is not the issue most of the time. We occasionally have problems, but that is not where the main delay lies.

Mr. Edighoffer: You referred to Monday meetings, and I can certainly see good reasons for them. I was just rather curious to know how many members attend those meetings.

Mr. Strauss: All of them, unless they are on vacation, sick or something like that. They all come in on Monday.

Mr. Edighoffer: They all come in on Monday whether they live in Thunder Bay or wherever?

Mr. Strauss: Yes, because they have to report back or bring back their files from the previous week, pick up their files for the current week, make arrangements with whomever they are travelling with--where they will meet, what they will do--turn in their expense accounts, pick up their cheques and sign decisions. That is one of the most important functions on a Monday. We ride herd on them not to leave before they have signed all the decisions that are ready for signature.

Mr. Edighoffer: I just wanted to clear that up in my mind.

Mr. Chairman: May I explore two subjects? It is a question of criteria, one subject in two areas. We have heard quite a bit this morning about these decisions that people are not permanently disabled or unemployable. What are the criteria? I am sure if you were to go around this room, you would find that every one of the members has had numerous examples of people who, to the layman and to common sense, are unemployable. Because of health, mental and physical, age, lack of training, lack of education and so on, to the person on the street they are totally unemployable; they cannot get a job. They are unemployable in common sense, yet the decisions continue to come back that they are not permanently disabled or unemployable. What criteria are used for this?

Mr. Strauss: I am surprised I have not included that in the printout. Is it not a regulation under the Family Benefits Act?

Mr. Fulton: Regulation 1(3).

Mr. Strauss: Regulation 1(3) of the Family Benefits Act. The regulation defines what "permanently unemployable" and "disabled" are. The wording, to speak from memory, is that the person must be unable to pursue gainful employment for a long period of time on the basis of objective medical evidence accepted by the medical advisory board. The medical advisory board, of course, is an advisory board to the director. He cannot make a grant unless the medical advisory board has accepted something as objective medical evidence.

Then they will say, "But this evidence does not show us that he or she is permanently unemployable." The matter then comes to us, and we will see what evidence was before the medical advisory board--usually the director accepts his advisory board's recommendation--plus whatever they tell us about how sick he or she really is, plus what we see. Our members, of course, are not doctors, and therefore they really cannot determine how bad or how

disabling a back pain is, but on the basis of that information they will make up their own minds.

To be permanently unemployable, it has to be sufficient to prevent the person from pursuing gainful employment. I think it is for an extended period of time, something like that.

The disability category just goes a little further. He must be unable to--

12 noon

Mr. Fulton: Unable to carry on the activities of normal daily living.

Mr. Strauss: That includes being able to look after your own hygiene, getting in and out of the bathtub and things like that.

Since there is no longer a financial difference in the allowance for a permanently unemployable or disabled person, people do not really care that much as long as they are one of those two. Therefore, most of the appeals we now hear are where the person is deemed not to be permanently unemployable. It really depends on the nature of the evidence. We do turn quite a few of these around based on what we see. I think the new system the ministry is introducing will avoid some of them coming to us. The definition is you have to be unable to pursue gainful employment for an extended period of time.

Mr. Chairman: The other matter I would like to explore is the criteria of the debt picture. If a person has built up debts, has been unemployed and so on, is perhaps ineligible for welfare and then has built up sizeable, personal debts and comes across--I know a case that comes to mind where there was a divorce settlement, a large sum of money--what is expected of that person? To live on that money and let the debts run, to leave existing debts unpaid or to take that money and pay the debts? It seems slightly immoral from a conservative area to leave people holding the bag while one lives on that capital.

Mr. Strauss: I do not know whether I can interpret what the thought was behind the legislation since we did not make it. Let me first say there is no provision in the allowance for debts. There may be an arrangement under general welfare assistance where the municipality will pay an additional amount of money to the appellant to allow him to clear his debt, for example, so the electricity is not turned off.

Mr. Chairman: I am thinking of a situation where the person does have the cash in a capital outside source. Is that person supposed to pay the debts?

Mr. Strauss: He is, but the idea is that as soon as he is a person in need, he should be able to get appropriate assistance and, therefore, should not have to incur debts for regular living. We assume we are not talking about debt for a car or something like that.

Mr. Chairman: Correct.

Mr. Strauss: If a person is a person in need, one of the two programs should provide him with the necessary means of subsistence so he does not have to get into debt. If however, he has got into debt, he is required to pay that off subsequently. There is no provision in the allowance per se to help him pay off his debts.

I think it would be very difficult, and I am speaking strictly off the top of my head, to know what is a legitimate debt that should be covered by an allowance and what is not.

Mr. Lupusella: What is legitimate and what is illegitimate is under guidelines.

Mr. Chairman: We are not really getting at it. I guess I had better indicate it. A person gets himself into debt when he is ineligible or before he has applied. He is ineligible for assistance. Then he gets a lump of capital. How is he supposed to treat that capital? He has not yet received assistance. When he has repaid the debt out of that capital and the capital has gone, he then applies for assistance and his application is rejected because supposedly he was not supposed to use that money to repay the debt. He was supposed to leave the debt unpaid.

Mr. Strauss: No, that is not correct. They may be rejected because somebody says they have disposed of assets for inadequate consideration within three years of applying for assistance. If they can show there was a legitimate debt and the case came before our board, I suggest we would rescind the decision.

Mr. Chairman: The criterion is the adequacy or credibility of the debtor, or the relationship between the debtor and the creditor.

Mr. Strauss: What has happened in some cases is somebody had some money, gave it to his children or some relative and said, "I owed them that money and now I have no money so I am eligible for assistance." The municipality or director and the Social Assistance Review Board would be very careful to satisfy themselves that was a legitimate debt, not merely disposing of the funds in order to qualify for assistance. If it is a legitimate debt, I think there should be no problem.

Mr. Chairman: So that is the criterion really--the legitimacy of the debt that was repaid.

Mr. Strauss: That is right.

Mr. Lupusella: If you are entitled to family benefits, how much money can you have in the bank now? Did the amount increase from \$2,500 to--you said \$5,000?

Mr. Strauss: I think it was recently increased. It used to be \$3,000 and 10 per cent of that would make \$3,300 under

certain circumstances. I think Mr. Fulton is right. It has now been increased to \$5,000, but I would hedge my bets on that. I am not sure.

Mr. Lupusella: It is \$5,000 if a couple is involved, or else it would be \$2,500?

Mr. Fulton: A single person is less--I am not quite sure of the amount.

Mr. Strauss: I think it is \$3,000.

Mr. Fulton: It is still \$3,000 for a single and \$5,000 for a couple.

Mr. Lupusella: Okay.

Mr. Fulton: Liquid assets.

Mr. Chairman: Thank you. Are there any other questions? There being no further questions, thank you very much for attending here today and answering our questions. You can carry on, go back and pinch-hit on the board this afternoon.

Mr. Fulton: Thank you, Mr. Chairman.

Mr. Strauss: Thank you.

Mr. Chairman: Before committee members leave, I would mention our attendance at Quebec City two weeks from now. It has been expressed several times that we should try to interface with more politicians in our schedule. Also, if you look at Thursday, the day we are scheduled to come back, the itinerary did state we would leave Quebec City at 10:50 Thursday morning. There is some thought as to whether or not the committee would like to make the departure later in the day. This was suggested in the event that Wednesday afternoon could somehow be filled with meeting politicians from there. If so, perhaps we could leave late Thursday afternoon, at 4 p.m. or 5 p.m. rather than at 10 a.m.

Mr. Epp: I may have to leave early, but anyway--

Mr. Chairman: Okay. Generally if it could be arranged, it would be preferable to leave later in the day? So that is it, fine.

Mr. J. M. Johnson: Mr. Chairman, you can be sure that schedule will hold until tomorrow morning.

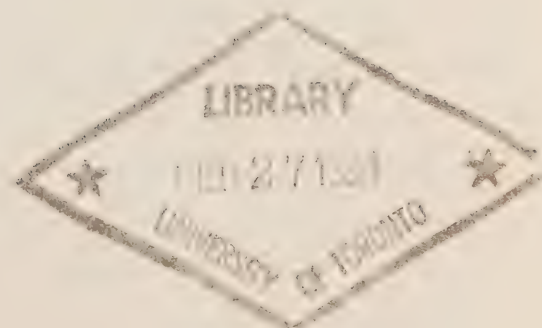
The committee adjourned at 12:04 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
NURSING HOMES REVIEW BOARD

THURSDAY, FEBRUARY 16, 1984



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Hennessy, M. (Fort William PC)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Lupusella, A. (Dovercourt NDP)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Sheppard, H. N. (Northumberland PC)

Substitution:

Gillies, P. A. (Brantford PC) for Mr. Treleaven

Clerk: White, G.

Staff:

Eichmanis, J., Researcher, Legislative Library
Kilpatrick, M., Researcher, Legislative Library

Witness:

Magda, P., Chairman, Nursing Homes Review Board

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, February 16, 1984

The committee met at 10:13 a.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
NURSING HOMES REVIEW BOARD

The Vice-Chairman: Mr. Treleaven is away this morning, so I will try to fill in and act as your chairman.

We have on our agenda the Nursing Homes Review Board. We have Peter Magda, the chairman, and Louise Hastings, who is the acting executive secretary, health board secretariat.

We want to welcome you. Perhaps to get things under way you might want to say a few words about the Nursing Homes Review Board or make any comments you wish to the committee. Then we will open it up to questioning from the committee on any activities.

Mr. Magda: Thank you very much, Mr. Chairman.

Before going into the Nursing Homes Act and the board a little bit, I might say for the record that the Ark Eden Nursing Home matter, which was before the board for some time last fall and earlier this year, has been appealed by the Ministry of Health to the Divisional Court. Since the matter is before the courts by way of that appeal, it would certainly be improper for me to make comments about that specific case, so if the members would perhaps refrain from asking--

The Vice-Chairman: The chairman recognizes that and we will caution the members to stay away from Ark Eden.

Mr. Magda: Thank you very much.

The Nursing Homes Act establishes the Nursing Homes Review Board. There are seven members of the board. Three of us are lawyers and four are not. The members of the board come from various parts of Ontario. We have a gentleman named Robert Bond, who is from Dobie, which is up north near Larder Lake. There are two members from Toronto, one from St. Catharines, one from Welland and I reside in Oshawa.

The board meets only when a hearing is requested in matters of refusals to issue licences, refusals to renew licences, proposals not to renew and suspensions of licences both under the Nursing Homes Act and under the Health Facilities Special Orders Act, to which I believe royal assent was given in June 1983.

There are seven members of the board, as I indicate. We meet when a hearing is requested. The procedure before the board is essentially that followed by the courts. We hear from the ministry first. The evidence is given under oath and the right of

cross-examination is extended to the respondent's side. Then we hear from the respondent, the operator, and the evidence presented by that side. Argument usually then follows, and we retire and consider the evidence before us and render a decision on the evidence presented before the board.

We have really had just the one major case where evidence was presented, and that was the Ark Eden one, in my tenure as chairman of the board since July 1980. There seems to be a little more activity now in the area of nursing homes as such, so I expect the board will be meeting more often. But as I indicate, we do not meet unless and until a hearing is called for.

That is a very brief outline of the board and some of its procedures.

Mr. Breaugh: I wanted to pursue a couple of areas that have confused and bothered me for some time. Nursing homes, particularly those in the private sector, are sometimes a very difficult thing for us to understand, for the most part because it is very difficult to get a set of facts that you can say are neutral observations of the operations of a nursing home.

Around here it has been promised for some time that the inspection reports would be made public, but they never have been; so in order to get information on the operation of a given nursing home, one really has to depend on the observations of people who either reside there, work there or visit there, none of which can really be considered neutral, objective, professional assessments of a situation.

You get into the awkward situation where you will get a complaint from a nursing home that somebody does not think he is being fed properly. Then you try to investigate it, and it really depends on how co-operative the nursing home wants to be. If they want to open up a little bit they will often tell you, "What we have here is an elderly patient who has been put on a restricted diet by a doctor, and we are simply following orders." But on some other occasions the nursing home does not feel it is any of your business because it is a private operation.

I wanted to get at this question of trying to get not necessarily a neutral assessment but a professional, objective assessment that is a matter of public record. We have been trying to get this for some time and have had various assurances on the way through that these inspection reports will now be made formally and openly. At what stage is that process now, to your knowledge?

Mr. Magda: I really do not know. The only inspection reports that the board as such has an opportunity to review are those presented as evidence in a specific hearing, so as far as the board's role in making these reports more available to interested parties is concerned, we really do not have any role in that regard whatever. The only inspection reports we see, as I indicated, are the ones that are presented to us at a specific hearing.

I know there are reports of a sort that are posted in nursing homes as such, and this just comes from my own personal experience of having been in a nursing home in Oshawa, say, attending on a client to sign a will. As you walk in the main entrance there is a large sheet, which indicates there may be some deficiencies in the home. There may be light bulbs out here or whatever. Those are posted and I am sure anyone who wants to walk in and take a look at them can do so.

10:20 a.m.

But to try to give you an answer as to when the types of reports you are speaking about might be available to others, I am afraid it is really not the function of the board. We do not not see these at all.

Mr. Breaugh: To give you a little of the history on it, the difficulty is we have gone through phases on this. At one time the reports were done by ministry staff. For example, four or five years ago when I was Health critic for the party, we were told the minister did not see the reports; he saw summaries of the reports. There was an elusive game played in which inspections were done and reports were filed, but we were never quite sure exactly who saw them.

For many of us who were interested in the field it made things incredibly awkward, because we could not get verification if there was a problem reported to us. It was usually done in an anecdotal way by someone with a vested interest, a patient, a relative or somebody like that. If we wanted to check it out, it was impossible to do that.

Subsequently, when the present Treasurer (Mr. Grossman) was Minister of Health, he made some kind of commitment to making the reports public. He said as part of that they had to change their reporting process. I believe his argument was there was some confidential information included in the reports to the ministry that it would not be appropriate to make public.

I seem to recall that in the fall session the present Minister of Health (Mr. Norton) said they had overcome these problems, but I do not recall there has been any publication of those reports, other than the kind you indicated earlier, which tend to be almost like a fire marshal's report on a nursing home about the physical conditions of lighting, fire exits, windows and all that stuff.

It seems to me it must make your job rather difficult when you are asked to review these things and there is no accumulated track record of a nursing home. I think that is a problem. I for one would not be happy trying to review the operation of a nursing home on a one-time report.

I would like to know whether that was a good day, a bad day, whether they had established a pattern of providing a level of care that was good or bad. Then, if you got a complaint from someone out there that they were not being given proper care, you would at least be able to put that in a good perspective over a three or four-year period.

Do you think that it is important to get something like that established as a process?

Mr. Magda: If that type of process you are suggesting would be of assistance in a hearing, the more evidence presented in favour of one side or the other, the better. In the experience we have had as a board, we usually have the inspector himself or whoever did the inspection go through the various steps in his report. Of course, the more detailed and complete the report, the better, but that simply assists the board in weighing the evidence before it. Obviously, if the reports were, in the view of the board and the members, scanty or incomplete, the ministry would have a difficult case trying to justify its action on whether a place should be closed or a takeover should occur.

Mr. Breaugh: It seems to me in this whole field there are many other areas where you could draw an analogy. There is a lack of documentation about whether good care is provided or whether there are operational problems or whatever. It seems that in part would account for the relative inactivity of the board itself.

Mr. Magda: That could well be. I would be speculating on that. As I say, our function is to sit at hearings and to weigh the evidence before us. I can assure you from the experience of the board to date there are a great number of documents and exhibits presented to the board. In one particular case we cannot discuss, there were over 700 or 800 pages of documents presented, so the board gets a pretty clear idea of what is happening.

Mr. Breaugh: One of the frustrating things is that most of us who are interested in the field are aware there is a lot of recording, reporting and documentation around, but very little of it that would allow someone like me, for example, to make a reasonable assessment of whether good care is being provided. It is a very awkward thing.

I always found it was very difficult with nursing homes because I often talk to patients in a nursing home who may have medical problems I am not aware of and they may not be aware of either. There is no way to find that out. When you get someone who calls you with a complaint and you try to follow that up to see whether there is validity to it, you keep running into a stone wall.

What is particularly frustrating is that a lot of people are inspecting these premises--physicians are in and out of the premises regularly; so are lawyers and a lot of other people, including the ministry staff--yet when you come to try to get some documentation on that, there does not seem to be any around.

As you say, when you sit down at a hearing on a case like Ark Eden and the process wants to open up this documentation, it is there; but it is not there otherwise.

Mr. Magda: Mr. Breaugh, I think you can appreciate that the mandate of the board is fairly limited. Our purpose is to hold hearings and consider the evidence before us. I do not know how

the board can help you or others in gaining access to the type of information you are looking for. I suppose one indirect way is to have you sit in on the hearings.

Mr. Breaugh: That is true.

Mr. Magda: I can appreciate what you are saying. You are indicating that there are some difficulties in gaining access to this type of information. I just do not see how the board can be of assistance there.

Mr. Breaugh: One of the problems I have with this process is that your board seems to be set up to deal with a serious problem in a nursing home, but there does not seem to be a mechanism to deal with it before it becomes a major, controversial issue. There is not a good way to resolve it.

You were on the Oshawa council and you are aware that when you are in political life you get complaints about how things work. For most of the things that people complain about, there is a mechanism to resolve a problem at an early stage and there is no need to gather up reams of documentation and go off to a court-like situation to have a final decision reached.

It is a fact of life that everything governments run have good sides and bad sides to their operation. When you get a complaint, there is supposed to be a mechanism in place to resolve that at an early stage--an administrator who will provide you with some information or an adjudicator who will hear a complaint at a local level. I am sure when you were on the council you had calls about police officers and what they did--there was a whole set of mechanisms at work there--or about the fire department, the works department or anybody else.

In nursing homes there does not seem to be a mechanism other than getting it to the stage where your board would sit in a situation very similar to a court of law and hold a hearing on whether or not this person would be allowed to retain a licence.

Mr. Magda: I understand what you are saying. From hearings we have had, we do know there are inspections that are conducted on a regular basis. The inspection reports themselves do cover areas and matters which I expect, in the view of the Ministry of Health, perhaps are not serious enough to take that ultimate step of not renewing the licence, proposing to revoke it or taking the home over.

I get the impression that there are certain deficiencies at nursing homes from time to time, as there would be. There is no place in the world that is perfect. But it seems to me in the main that those deficiencies are corrected on an ongoing basis. If we reach a stage where we find the deficiencies are not being taken care of and certain risks exist to the occupants, then the ministry takes action.

10:30 a.m.

Mr. Breaugh: I want to try to get at another aspect of

that. One of the frustrations I had was that wherever you went to investigate a complaint about a nursing home, a lot of the focus of government was on mechanical things, almost like a fire marshal's report on the building, or on the condition of the building, which a municipal building inspector would provide you. You could get that kind of information. But most of the complaints were not about that kind of stuff; they were about nursing care or something of that kind, and it was almost impossible to get a professional assessment of that.

It seemed that once the facility was given a licence to operate, after that point there was not much in the way of checks and balances on the process as there would be in the case of a hospital, for example, where there is an accreditation system at work providing a regular assessment of the level of care as opposed to the number of beds, the number of fire exits, whether the light bulbs are all working and all of that, but a legitimate, professional assessment of the level of care.

We could never find a similar attempt being made in the nursing homes. You are now in the process of a major hearing on one. Do you think that is happening? Are we doing that now?

Mr. Magda: From the hearings we have had, it seems to me the inspections that are conducted cover all the areas you are concerned about. The regulations under the Nursing Homes Act cover nursing care, environmental, fire, safety and dietary aspects. All of those are set out in the regulations, and I would presume that inspections cover all those areas.

Mr. Breaugh: Yes. The difficulty is that we do have to presume this.

Mr. Magda: I say I have to presume it simply as the chairman of this board. As chairman, I do not take an active part, nor do the other members, in attending at nursing homes here and there. That is really not our function. To a certain degree, we have to keep our independence, so to speak, and confine ourselves to matters that are brought to the board. If we get into various areas where we are not really qualified, we are going beyond our mandate.

Mr. Breaugh: One of the things I am sure a lot of members of the Legislature find confusing is that we went through a period of time where a number of us raised issues about the level of care being provided in nursing homes. The official position was, "There is really nothing wrong here. We have this well in hand and there are no problems," so to speak. Then we get faced with this new act which the minister said he had to have, the Health Facilities Special Orders Act, which seemed to indicate that, all of a sudden, there were a lot of problems.

That is much the same as with your board. The board went through a period of relative inactivity and then, suddenly, there was a big case in front of it. For years, particular nursing homes were said not to be problems--no difficulty there. Then, all of a sudden, the minister wants to shut the joint down.

There is no continual flow here of checks and balances. There is a start and a stop. You go from having absolutely no difficulties at all, from "There are no problems, folks" to "Here is an emergency situation. We are going to shut this guy down. We are going to have him reviewed." It is confusing.

In political life, I think most of us are aware that nothing we run into in government really works perfectly. There are good days and bad days. Some things they do well and some things they do not do very well at all. We are accustomed to the idea of having mechanisms that will investigate a complaint, places such as review boards where, if there is a problem, you lay a complaint and off you go. An agency like this review board is set up and it hears the case. We are confused that we have kind of flipped from one extreme to the other.

Mr. Magda: On that one point, it seems that the Health Facilities Special Orders Act sets out the purposes of the act in subsections 2(1) and (2). The purposes stated there are "to enable the minister to act expeditiously to prevent, eliminate or reduce harm to any person" and so on. It allows a mechanism for an immediate takeover of a facility where there is a perceived problem.

Under the Nursing Homes Act, as I understand it, there was a mechanism to take charge and control, but it was a procedure which required an application to the court by originating notice. Once you are into court proceedings, immediately you have some question of delay. I think the purpose of the Health Facilities Special Orders Act was to allow that quick action.

Mr. Breaugh: We are all in agreement that the Health Facilities Special Orders Act is a more direct intervention approach. At least it clarifies what a government can do. It is based on the premise that if there is really something wrong, you do not want to sit around for two years while this thing goes through the court.

Mr. Magda: Exactly.

Mr. Breaugh: Do you think there is a conflict between the two acts?

Mr. Magda: No, I really do not think so. I think the purposes are the same, namely, to regulate, to inspect, to take action when action is necessary. The Health Facilities Special Orders Act enables the minister to take more expeditious remedial action. I think that is reasonably consistent.

Mr. Breaugh: There is one other area I want to pursue with you because there is a relatively new phenomenon at work here. The problem comes about because a lot of the nursing homes are in the private sector where the purpose of the exercise is to provide care but also to make a profit. It seems to me quite a logical expansion of that concept that where they have a unionized staff and the power to contract out, a number of nursing homes in this area and other areas now are saying, "We are simply going to

exercise that now. We are going to take these people who are now part of our nursing home staff and we are going to lay them off. We are going to contract out to Medox or some other company for provision of care."

It seems to me patently obvious there is going to be at least a change in the level of care. Yet I would be at a loss to explain how that would be the subject of a complaint that would find its way in front of your board.

Mr. Magda: I expect if the level of care noticeably decreases in any given nursing home, that would be the matter of an inspection report and a report to the ministry and the ministry would have to take such action as it sees fit.

Mr. Breaugh: I can follow this process as being one that is acceptable if the inspection reports were documents that I could see or if there was some way someone laying a complaint could justify his complaint, but all of that process is hidden from me as a politician and it is hidden from the public until such time as the minister chooses to make it public. I find that awkward.

Mr. Magda: I cannot comment on whether or not it is hidden. All I can say is I do not see where this board or I can be of any assistance to you in that regard because it is really not our function.

Mr. Breaugh: Let me be a little more specific then about the concern I have with the board.

Mr. Epp: You seem to be pretty good at evading these questions.

Mr. Magda: I wish I could answer them.

Mr. Epp: You must have been in politics.

Mr. Breaugh: He is from Oshawa. These boys get trained well.

Mr. Epp: Maybe he would like to comment on whether he should be or not.

Mr. Breaugh: The difficulty I have, in a nutshell, is that if I am to be supportive of a board that reviews nursing homes and the care that is provided there, I have to have some reasonable knowledge that there is publication of facts, that there is a way to collect evidence and that the board will base its opinion on something which is reasonably well presented and reasonably well documented. I am having great difficulty doing that.

It is fine to say, "When the minister decides that something will happen, it will happen." We gave him an act last year that makes that happen a little more directly. That is all hunky-dory,

but in terms of having a board to review nursing homes and whether or not they are working well, I am having some difficulty with this.

When we have reviewed other agencies of this nature, part of the line of questioning we always follow is, "How does your process work every day?--not just when they get something spectacular, but how does the Jockey Club regulate the race tracks? They have a long list of reports and documents that are made public. We go through the process of how they receive a complaint and how they investigate that. So there is a fairly open, active process we can examine and we can then make a judgement.

There is a process at work here and a board that says yes or no at the end of the process. So we can leave these hearings saying, "Okay, we are reasonably sure it is kind of tough to fix a race in Ontario at the tracks." I would have a hard time making that judgement about this board because all of the aforementioned routine seems to be missing. I have to believe it is going to happen, but I am believing it on blind faith. I do not have the hard facts in front of me.

Mr. Magda: There is not really a lot more I can tell you, other than the board has its function to sit and hold hearings when requested to do so. The board does not take an active, participatory role in the administration or in the policy or the day-to-day operations of either the Ministry of Health or the nursing homes out there.

We do not sit on a regular basis and review inspection reports or get that type of input. That is not really the way the board operates. The board operates and functions only when called upon to do so and makes its decisions on the evidence presented to it. It is a very narrow function. We do not get involved in policy. We do not get involved in day-to-day operations, as I have indicated.

10:40 a.m.

We are somewhat of a judicial tribunal reviewing what has been presented to us. We take it that if a proposal is made to revoke a licence, there is some evidence to substantiate what is being proposed. If, on the evidence presented to the board, there are deficiencies which in the mind of the board are serious enough to warrant that type of action by the minister, we confirm the order. If we find there are not, we have the power to vary, rescind or substitute whatever order we feel the minister should apply.

To maintain that independence, we cannot really get involved in the day-to-day operations of either the Ministry of Health or the nursing homes.

Mr. Breaugh: I will try to pursue it a bit. One of our obligations in trying to review an agency such as yours is to try to establish that there is a day-to-day regulatory process at

work. It is fine to say, and I believe it is true to say, that you are an agency which sits at the end of a process and makes a decision. Part of our job is to try to examine the process as well, so that when we justify the existence of an agency we know there is a structure at work there, and the purpose of the agency is perhaps to make a decision at the end of this process. Without a clear identification of the process, it is pretty tough to justify the agency.

Mr. Magda: You are indicating the agency is at either the pyramid or very bottom of a long process and has a day-to-day involvement in that entire process. That is not correct. The process as such is the process conducted by the Ministry of Health.

Mr. Breagh: That is not exactly the point. The point I want to make is we do not really care whether the agency is involved in the day-to-day process. Most of them have more involvement than you would have. What we are concerned about is that the agency is aware that a process does exist, that the process turns up sufficient information for its purposes and sufficient information for our purposes as well. That is precisely the difficulty.

For example, why would I now support the continuance of your board when I am not clear what the process is, when I am not clear you are satisfied the process provides you with sufficient information, when I am not clear it works or that it provides the public and members of the Legislature with enough knowledge about what is going on? In a sense, you leave me in a position where I see an agency which is almost like a hit squad. It is brought in from time to time to do some dirty work the minister does not want to do.

Mr. Magda: Mr. Breagh, that really is quite an analogy. I do not consider the board is a hit squad or whatever. The spirit in which these administrative tribunals, including the Nursing Homes Review Board and other boards I sit on, were created a long time ago still survives. I cannot speak much about nursing homes because we have just had the one major case. Taking the other boards I sit on, such as the Health Facilities Appeal Board, I think if you look at the statistics you will find that more often than not we do not confirm the minister's order.

When we dealt with closure orders under the Public Health Act, there were many instances where on the evidence presented actions were taken we did not feel were justified. To presume that we are part of a process involving only the Ministry of Health is only looking at half the issue. The other half is all the nursing homes out there which are licensed and are, as you say, in business privately looking after people, making money and making a profit, which is the nature of private enterprise.

We are a board that exists and sits where these two areas come into conflict. When they come into conflict, it is a matter of revoking, suspending or proposing not to renew licences. As a body, we sit and listen to the evidence from both sides. Based on that, we decide whether the closure orders or proposals to revoke were proper.

I cannot agree with the analogy that we are at one end of a process, the process being the operation of the Ministry of Health. On the contrary, we are, we hope, an independent tribunal that offers a fair hearing to people who have a problem.

Mr. Breaugh: Okay.

Mr. Magda: We try to decide the matter on the evidence presented to us. If we were involved on either side of the spectrum, we might well lose that sense of independence.

Mr. Breaugh: In reviewing a number of agencies, one of the things we look at is how active the agency has been. On balance, if I were not talking about nursing homes and I looked at an agency that had not really done anything in a couple of years, excluding the case recently of one, which is probably going to go off to court anyway, I would probably be inclined to think the agency is not working. Why do we have it around? Give me some justification for retaining your board.

Mr. Magda: As to retaining the board, obviously we are created by statute. It allows a process whereby an individual in Ontario who happens to be a nursing home operator and who is licensed has an opportunity for a hearing when the person or persons who issued the licence are saying to him, "We are going to take your licence away." It gives that individual an opportunity to go and have a hearing--a fair one, an independent one, it is hoped--which will allow some opportunity for him to correct whatever the problems are to begin with, and if the ministry, for example, does not have a solid case against him, perhaps to have his licence reinstated. The ultimate remedy, I suppose, an appeal from our board, is to the courts, which may well be a very long and expensive process.

Mr. Breaugh: We have reviewed a number of agencies that just have been inactive. They had not met in a couple of years and they had not done very much. The committee has been disposed, as a general rule or at least to talk about it, to say: "We have an agency out there that was set up a long time ago and has not done anything in a couple of years. We have to take a look at sunsetting that agency. It is not serving a purpose because it is not doing anything." What would prevent us from thinking the same thing about your board?

Mr. Magda: I do not know, to be honest with you. I understand there is considerably more activity in the area of nursing homes. There is more debate and there is more public awareness. There is certainly a lot of discussion in the Legislature, as you are aware.

Mr. Breaugh: Do you have an explanation for the kind of two-year period where nothing seemed to be happening with your board?

Mr. Magda: No, I do not know.

Mr. Breagh: You do not know. I have one final question.

The Vice-Chairman: I have heard that before, but go ahead.

Mr. Breagh: I have to say it. I have never had to use a lawyer, but if I need a lawyer, I am going to look you up, Peter.

One of the things that has always confused me is that when one goes through the act respecting health facilities and part of the jurisdiction which might be expanded for your board, the interesting questions that always come into play are about things that are not called nursing homes but serve similar purposes, such as rest homes. At least in my view, there appears to be documented now over a number of years a lot of problems in that area. The field is being expanded because there are now things called homes for special care and a variety of programs that the government is running, taking people out of institutions and putting them into some other setting.

We really do not have any licensing or any regulation or any way to determine whether good or bad care is being provided. Would your board be prepared to consider an expansion of its terms of reference so that you do more than just nursing homes, but attempt to find some place where an adjudication can be made around these other types of care facilities?

Mr. Magda: Yes. I would not see any difficulty with that provided the appropriate legislation was in place. It would be somewhat similar in scope and somewhat similar in operation. I am sure the board, if it had the power to do so, would sit and hear complaints.

10:50 a.m.

Mr. Breagh: I am really looking for an arbitration process that would allow a grouping of care facilities, so to speak, to get them in front of a board. With regard to nursing homes, I have tried to lay out for you some of our difficulties in coming to grips with that.

In terms of other things called rest homes or homes for special care, there is a variety of them now out there. Many of them have just been churned out in the last three or four years as the government goes through a kind of across-the-board program of deinstitutionalization, and yet we have no regulatory agency really at work there, so there may well be a need.

You are essentially saying that you can see that this bears some relationship to the work you are supposed to do.

Mr. Magda: I think it would. It falls into a similar category. This board having had some experience now in dealing with nursing homes, I am sure it would be useful in a process if one were put in place, as you suggest.

Mr. Breagh: Okay, I give up.

Mr. Epp: Mr. Magda, I recognize the fact that the Ark Eden situation is before the courts and you cannot speak about your feelings on it, but maybe you can take us through the process of how you were notified about it, the appeal process, how long you sat on it and so forth with respect to the technical aspects of that hearing, such as the kind of representation that came before you. Your decision was to uphold the ruling, I guess.

This is just to give us a better understanding of how the board works.

Mr. Magda: All right. I really do not know if I can discuss Ark Eden, even--

The Vice-Chairman: Do you have another one that is comparable?

Mr. Magda: Let us say there was, but we will not call it Ark Eden.

Mr. Epp: Okay.

The Vice-Chairman: I think what Mr. Epp wants is the procedures rather than any details.

Mr. Magda: I think you want to know the procedures.

Mr. Epp: I recognize that you cannot discuss details.

Mr. Magda: There were two appeals, essentially. They were not really appeals; there were two requests for hearings. The original one was under the Nursing Homes Act, where the Ministry of Health felt there were certain structural and operational deficiencies at this particular home and because of those they proposed not to renew the licence.

The appellant requested a hearing at the board. The appellant was represented by counsel and the ministry was represented by counsel. The board heard evidence that was presented by the ministry and felt, on the evidence presented, that the proposal not to renew was not justified. We found that the structural deficiencies that were complained of were in fact the subject matter of an agreement that they could be deferred to some future date. Accordingly, the appeal was allowed.

Under the Health Facilities Special Orders Act, proceedings were taken with a proposal to revoke, I believe it was, and the proposal to revoke under the Health Facilities Special Orders Act is in fact a suspension of licence. When the licence is suspended, the minister can take immediate steps to occupy and operate the nursing home.

That in fact was done, and a hearing again was requested to review that particular procedure. Again counsel represented the appellant and the respondent. The evidence was heard and the decision rendered back in January. I think we sat five days at the beginning and then six days for the second part of the year.

Mr. Epp: Any appeals to your board, of course, have to be filled out in written form?

Mr. Magda: Yes. The procedure in the act indicates that if a party requests a hearing, it must do so within 15 days. Then a date is set for a hearing, the date being usually determined, if there are counsel, to try to accommodate everyone so that we do not--

Mr. Epp: Are the appellants usually represented by counsel?

Mr. Magda: If you are talking about the Nursing Homes Act, usually yes, because we have had only the one extensive hearing. They would be, because you really must remember--and I am sure you are aware of it--that the licence to operate a nursing home is a pretty valuable thing; it has a market value of some substance, and most people realize that. They may lose it.

Mr. Epp: If Cadillac Fairview is after it, it must be good.

Mr. Magda: Yes. So we would expect most appellants to be represented by counsel.

Mr. Epp: As far as the mandate for the people on the board is concerned, have you compared the mandate you have in Ontario with the mandates that other similar boards of this nature have in other provinces?

Mr. Magda: I have not investigated the other provinces. Perhaps we take a fairly narrow view of our function. We know we are created by statute. We know what our purposes are and we try to maintain, let us say, as much independence as possible.

Mr. Epp: Should this mandate be expanded? Do you think you have enough leeway in order to give, not only an objective decision, but also one that is perceived to be an objective decision?

That must be very important to you, Mr. Magda. I am sure you would tell me it is an objective decision when you make it. I am not arguing that point. But it is also important, as you can understand, to perceive it to be an objective decision and for you to have the latitude you require so the public sees--

Mr. Magda: Yes. I am well satisfied all the members of the board have that type of latitude. We have discussed this before. We have to make decisions based on the evidence presented before us. It is that simple. In the spirit of that independence, perhaps that is one of the reasons why we do not get involved in policy matters, whether they be with the Ministry of Health or the government. On the other side, we do not get involved in attending meetings of nursing home associations.

We view ourselves as mostly a judicial-type tribunal that tries to be as objective as possible. I think we have that

latitude. We are not aware of any pressures on us from anyone that would influence us.

Mr. Epp: You are saying then, if you are closeted with the minister and he asks, "Look, Mr. Magda, do you need any more powers or leeway?" you would answer in the negative?

Mr. Magda: I think the board has a mandate that is adequate for its purposes.

Mr. Epp: You have had only one case in the last number of years, or have you had others?

Mr. Magda: No. There are three cases pending, based on the advice I have received from the health board secretariat. I really do not even know the names of the cases, because I do not want to know until they come before the board for a hearing. I understand three cases are pending.

Mr. Epp: How is the information you get prior to the hearings disseminated to the members, and how do you treat the confidentiality of it?

Mr. Magda: The only information we receive prior to the hearing is a notice of the hearing and whatever document or order exists notifying the licensee his licence is going to be revoked, or that there is a proposal to revoke it or not to renew it. That is all we receive. We do not get any evidence at all until the hearing commences.

Mr. Epp: Until the morning or afternoon on the day it commences?

Mr. Magda: That is right, whatever, 10 o'clock.

Mr. Epp: Do you then get a dossier in front of you or how does it work?

Mr. Magda: It depends on what counsel presents to us.

Mr. Campbell, who has represented the ministry in these cases, generally presents a very large book of exhibits at the beginning and takes his witnesses through it. We see it for the first time, and we hear the viva voce evidence under oath for the first time at the hearing.

Mr. Epp: Are all your witnesses under oath?

Mr. Magda: Yes, and a transcript is taken of the proceedings. They are recorded.

Mr. Eichmanis: Just to clarify this: in other words, the ministry does not send you any material prior to the actual hearing?

Mr. Magda: No.

Mr. Eichmanis: It only comes at the actual moment of the

hearing? That is when you see the material.

Mr. Magda: That is right, any evidentiary material. As I say, what we receive is a notice of the hearing, and I do not know what you call it--call it an order. The order goes out indicating such and such a notice has been sent to the appellant that his place is going to be closed. That is all we receive.

Mr. Lupusella: Do you get some background material?

Mr. Magda: No.

Mr. Lupusella: None at all?

Mr. Magda: No, sir.

Mr. Epp: Do you have seven members of the board?

Mr. Magda: Seven, yes, sir.

Mr. Epp: what is your quorum?

11 a.m.

Mr. Magda: Four.

Mr. Epp: You are chairman?

Mr. Magda: Yes.

Mr. Epp: So there are six other members besides you?

Mr. Magda: Yes.

Mr. Epp: What are the backgrounds of these people?

Mr. Magda: Mr. Bond, who is from Dobie, a little place near Larder Lake up Kirkland Lake way, was in the banking business for a while and then in the mining business. He has been retired for a good number of years now. He is 72 years of age.

We have Betty Crockett, who is a bank manager in Welland; Mary Ellen Polak, who is a housewife; Susan Murray, who is a consultant in Toronto; and Caleb Hayhoe, a lawyer here in Toronto with a large law firm. Mr. Higson, whom I have only met once, did not sit at the last hearing. He was appointed in May 1983.

Mr. Epp: Are you consulted on the appointments?

Mr. Magda: I cannot say.

Mr. Epp: Do you have any input when these appointments are made?

Mr. Magda: No. The only input I have, to be very honest with you, and that is why I hesitated, was on my own reappointment, which has just come up. I do not know if the order in council had been made. I did ask Mr. Bond if he was interested

in continuing to sit, due to his age, and he agreed. So I think he has been reappointed as well.

I have no input for new appointments to the board.

Mr. Epp: You are not consulted. So you get a letter or someone tells you X is going to be on the board?

Mr. Magda: Yes. I have one here in the file appointing Mary Ellen Polak. I received a carbon copy of a letter indicating she had been appointed, and I get a copy of the order in council.

Mr. Epp: Is any particular criterion used for appointing these people?

Mr. Magda: I do not know.

Mr. Breagh: It does not seem to be available.

Mr. Magda: No, I honestly cannot answer that.

Mr. Epp: We do not even know if they have to be Canadian or if they have to live in the province. That is all confidential.

Mr. Magda: I do not know the process. I just know I was asked to be a member.

Mr. Epp: We do not know if someone has to be a member of the KGB or something of that nature.

Mr. Magda: You have to be a member of something.

Mr. Breagh: Peter is not a member of the KGB.

Mr. Magda: No, I am not.

Mr. Epp: I want to clarify what you are saying. You have either had four cases or there is a total of four that you have had and that are pending. Is that correct?

Mr. Magda: No. We have had one hearing and there are three appeals pending. That means proposals have been made either to revoke or not to renew the licences of three established nursing homes.

No dates for those hearings have been set, either by request of the parties or--again I am speculating because I do not know. There may be deficiencies that require some time to correct and perhaps these things are being attended to. We do not know, but dates have not been set. We have dealt with one and there are three we know of that may come to a hearing.

Mr. Epp: So the appellants in this case would have the chance to withdraw if they met some of the objections the minister obviously has?

Mr. Magda: That is right.

Mr. Epp: You will not necessarily hear three more cases?

Mr. Magda: That is correct. That may well be.

Mr. Lupusella: I am interested in the last question concerning procedure. When the board takes a position that a licence must be rescinded, is the nursing home going to close, or does it have the remedy of appealing the decision to the minister, saying the nursing home will comply with the position taken by the board? What kind of a procedure is there?

Mr. Magda: If, on the evidence presented to it, the board agrees with the position taken by the minister that the licence should be revoked, the nursing home operator has an opportunity to appeal that decision to the Divisional Court. If the Divisional Court agrees that the minister's position was correct, then that nursing home will close, because nursing homes must have licences to operate and the licences are for one year.

Mr. Lupusella: In your own experience, do you have cases in which the minister agrees with the position of the board or is there sometimes a disagreement?

Mr. Magda: It is not so much the minister agreeing with the board, it is the board agreeing with the position of the minister.

Mr. Lupusella: I knew that.

Mr. Magda: If we find on the evidence presented that there was not sufficient justification for closing or proposing to revoke the licence, the board has the authority to either vary the order, rescind it or substitute whatever order it feels is appropriate in the circumstances.

Mr. Lupusella: The other question is about a recent case. I received a phone call from someone in my area whose mother was in a nursing home. Her mother got extremely sick and was sent to the hospital. Once she was better, the nursing home did not want her back, so she was on a waiting list to find another nursing home.

Can this case be appealed before the board to find out if the decision taken by the nursing home was correct?

Mr. Magda: I do not believe so. I believe--

Mr. Breaugh: Maybe you could correct me, but I think if my recollection is correct, the review board will not hear individual cases.

Mr. Magda: That is right.

Mr. Breaugh: In this instance, you can say, "That is not our jurisdiction." If someone complained, "My grandfather wandered away from a home and was hit by a truck," you would say, "That is not our business, we deal with the licensing of the home." Is that it?

Mr. Magda: Yes, we deal with the licensing of the home. That is our function. Right at the beginning of the statute, it indicates that.

The Vice-Chairman: Can I get a supplementary to that? Would it be fair to say if that particular nursing home came up for lack of supervision or care or something, that kind of information might be presented at one of your hearings as evidence as to why the Ministry of Health was doing something?

Mr. Magda: Yes, that is right. If the Ministry of Health perceived that situation--again we are just speculating, but supposing they perceived that to be a serious enough problem to warrant suspension of that nursing home licence, it would come to the board in that fashion, yes.

The Vice-Chairman: They would present their witnesses as part of the evidence. Would it be fair to say the letter Mr. Lupusella may have written to the Minister of Health may come in as one of the documents, one of the exhibits?

Mr. Magda: It may well.

Mr. Lupusella: If the case appears before them.

Mr. Magda: But the individual involved in the circumstances you outlined cannot come to the board. Indirectly, if the ministry took steps to revoke or proposed not to renew, that would be part of the scenario, part of the evidence presented.

Mr. Lupusella: Okay, thank you, Mr. Chairman.

Mr. J. M. Johnson: Mr. Magda, I have just a couple of questions. One is to follow up Mr. Epp's question about the makeup of the board. My question is, how do you get anyone to serve when they do not pay them anything for a couple of years?

Mr. Magda: I do not know.

Mr. J. M. Johnson: They have to be appointed, or they would not serve.

Mr. Magda: The honorarium is quite small, but I understand it is not out of line with other boards and tribunals. To speak about my own specific case, the difficulty is I practise as a sole practitioner in Oshawa. To come to Toronto for six days out of a month and get \$125 a day is not exactly good economics, but I enjoy doing the work.

Mr. J. M. Johnson: I assume those people have to be on call with the chairman to be ready to serve when they are requested?

Mr. Magda: Yes.

Mr. J. M. Johnson: So that precludes anyone having a full-time job.

11:10 a.m.

Mr. Magda: Oh, no. We all sort of have full-time jobs.

Mr. J. M. Johnson: I have a concern. Our researcher has said you have not sat for several years, at least until the last part, and that would indicate everyone is happy. I am not sure I can accept that.

I have a riding that has a lot of small nursing homes. I know many of the people quite well. They started homes many years ago, usually with a large older home in a small community and likely added to it. Naturally, there is sometimes a bit of a problem with structural details; in fact, regulations could close every type of home in the province. I think this building would be lucky to pass the test.

If an inspector wants to look closely enough, he can always find something. I fully agree with the concern for fire safety. If there is any fire safety problem it should close, but not if it is not fire safety and it just does not meet the requirements for some reason such as it cannot get the width without tearing out a bearing wall or something requiring a complete rebuilding process.

I have had cases brought to my attention where work orders were issued that gave them absolutely no choice but to sell out. I think many of these people, faced with the choice of accepting that or appealing it, feel they are far better off to accept the first offer and get out rather than appeal and fight it.

Mr. Magda: Taking the facts as you outlined them, provided these situations could be taken care of at a modest cost, I do not think they should be afraid to come to the board.

Mr. J. M. Johnson: It is hearsay, but I did have one nursing home operator tell me he was faced with a work order of X dollars. He said, "I could comply with that, but does that mean next year you will not come along and tell me I will again have to spend a substantial amount of money?" He was told, "Frankly, we would like to indicate it will be that or more next year."

Mr. Magda: It is very difficult for me to answer. I would say that nursing homes that existed prior--

Mr. J. M. Johnson: Are we so hung up with the idea that big is better that we are perhaps closing a lot of smaller homes that are providing better care of an emotional type? There is no question that you have better facilities in a brand-new home, but are we then sacrificing the care they have in the smaller homes that cannot be provided in the larger institutions?

Mr. Magda: It may well be.

Mr. J. M. Johnson: But that is not assessed in the situation if it is--

Mr. Magda: The situations usually come before the board when these pre-existing, older, smaller nursing homes and their

licences are sold; when someone wishes to purchase one from a vendor. As I understand the procedure, there are certain sale conditions that must be met. At that time these things are imposed more stringently to bring the homes up to a higher standard. That is where a lot of the situations arise. But I cannot say specifically whether expensive proposals to change buildings structurally are being demanded from inspectors. I do not know.

Mr. J. M. Johnson: My concern is that in many of the small communities, villages of 1,000 to 1,500 people, they would much sooner live the rest of their lives in a small, family type of setting with 12 to 15 residents rather than move 15, 20 or 30 miles to a 100- or 200-bed home. It is next to impossible with the regulations that are set out; they say 70 to 80 is a minimum or break-even point for size.

There is something drastically wrong when we force people in the latter part of their lives to make drastic changes. I accept that we have to make changes for fire safety, but other than that I think we are too clinical in our approach.

Mr. Magda: That may well be. Certainly, if there were a hearing and the type of home you described was the subject matter of that hearing, we would listen to the types of submissions you have just indicated.

Mr. J. M. Johnson: It was not fair to even ask you some of the questions, but I do register my concern. It seems to me that if you have not had any cases for seven years, there is something missing someplace.

Mr. Edighoffer: Can I just follow along on some of the comments Mr. Johnson made? What year did the Nursing Homes Review Board come into effect?

Mr. Magda: Originally? I do not know the year the Nursing Homes Act first was passed. I imagine it was some long time ago, was it not? I think it is indicated as 1972. The regulations speak of a date in July 1972.

Mr. Edighoffer: How many cases have come before the board in that time?

Mr. Magda: I can only speak of 1984.

Mr. Edighoffer: You cannot give me anything before that?

Mr. Magda: No.

Mr. Edighoffer: Do you have it, John?

Mr. Eichmanis: I only know that the board did not sit in the two years prior to 1983. I did not check all the way back.

Mr. Edighoffer: The point I am getting at is along the thing you mentioned, Mr. Magda. We have many small nursing homes and because of the large dollar factor that is now placed on the

price of nursing home bed units and the transfer of those, we are seeing the bigger units come about.

Would you see in the future, when the homes get larger, that there may be more use for your board?

Mr. Magda: I really cannot say. I do not know. I would have to presume that larger is not necessarily better.

Regarding Mr. Johnson's indications of nursing homes in smaller rural areas, I have no reason to expect that the level of care in smaller homes is necessarily not as good as that in larger homes. I cannot say.

Would we have more hearings if nursing homes became larger? I really do not know. One would think that larger might have some economies or efficiencies that might be a little bit better. I really cannot say.

As far as the activity of the board in hearings is concerned, we can only speculate. Since there has been so little activity for the board in the last few years and suddenly we have had these hearings and we have three pending, it seems to me, yes, the board will have more hearings.

Mr. Edighoffer: That is just the feeling I might have and the only justification I might see for continuing with the board.

Mr. Breaugh: Can I just expand on that? One of the things that has always aggravated me is that you essentially deal with the revocation of the licence, which in my parlance is a big-deal item. I would hazard a guess that, as Jack says, 70 to 80 per cent of the nursing homes in operation in Ontario are in violation of some regulation somewhere. The work orders and the notices from the ministry are out there, but they tend to get ignored.

11:20 a.m.

As you said, it is reasonably common practice in the field to threaten somebody that they are going to send them off to review the licence. They say, "We are going to give you two years, though, to fix up this wall, change this window," or something like that. There is a lot of implied threat without actually using the review board. It is used as a kind of threat: "If you do not clean up your act, we are going to send you off for a review of your licence," or "We are going to give you two years to fix this up, or six months to do that."

If someone complains that somebody just walked away from a nursing home in north Toronto and got hit by a truck, there is no mechanism to deal with that matter. If that happened as a pattern, then the ministry would move to get that home before your board for a review of its licence. There is a whole area of complaints in there that is just not dealt with.

Mr. Magda: That may well be.

Mr. Breaugh: What if the committee recommended that the review board ought to maintain its mandate to deal with the suspension or revocation of a licence but, in addition, that this review board ought to be in a position to hear complaints from individuals about care or from a group of people about the type of facility that is being run?

One of the things that concerns me is what Jack brought up. In a number of small communities in Ontario there are nursing homes in operation that many people think are good nursing homes, but they are constantly being faced by people from the ministry writing out work orders, saying, "You have to do this within a couple of years or sell your licence or get out of town."

It always struck me as being a terrible way to function. Nothing ever really gets resolved. There are a lot of threats that go through here, there is a lot of paper flowing, but nothing really happens. If an individual has a complaint, there is not very much the individual can do. We could package it all up, and it would eventually hit your board. What if we proposed an expansion of the mandate to hear complaints?

Mr. Edighoffer: And we could suggest the chairman gets a deputy minister's salary.

Mr. Breaugh: Oh, come on. Don't worry about that.

Mr. Magda: I agree, Mr. Breaugh. I do not think there is any doubt the mandate is quite narrow. We really only sit on matters of licensing. If you expanded it, presuming the problems out there are as you describe them, I think you would see a large change in the composition of the board.

Mr. Breaugh: Yes.

Mr. Magda: If it became a board that sat every week or three or four or five times a month, you would see a change in the composition of the board, but it would certainly address the problem areas you have indicated. I know there does not appear to be much of a mechanism to hear those complaints.

Mr. Breaugh: It always strikes me as strange that we have a liquor licence board because we are very concerned about where people drink booze. That board sits and hears complaints about somebody operating too late or not running a proper place. We have this board that sits regularly and hears all these complaints and goes at it, yet for nursing homes we have a board that is relatively inactive because the process says it is all or nothing--you revoke somebody's licence or suspend it or whatever.

I am simply trying to capture some idea that might allow for a place where these complaints could be vented. That would probably mean an expansion of the board's mandate so you would do more than just suspend licences, although you would probably want to retain that function. There ought to be other disciplinary action that could happen prior to that.

Mr. Magda: The board would probably be a vehicle for that type of concern, yes. It would expand the role tremendously.

Mr. Breagh: Yes, it would.

Mr. J. M. Johnson: As a follow-up to that, it is my understanding that a nursing home receives a licence each year.

Mr. Magda: Yes.

Mr. J. M. Johnson: To receive a licence, there is an inspection, and if there is a work order against a home, it does not receive its permanent licence for that year until the work order has been cleaned up.

Mr. Magda: Yes.

Mr. J. M. Johnson: The point I was making, and Mike followed up on it, was that if the individual nursing home operator feels there is an inequity in the work order, is there any mechanism of appeal at present?

Mr. Magda: As Mr. Breagh pointed out, the only recourse he would have--and I am speculating a little bit--is to say: "Look, I cannot comply with your request. This work order is going to cost me \$100,000, and I just can't comply with that." Then the ministry would say, "If you can't, we are not going to renew your licence." That is how it would get--

Mr. J. M. Johnson: I am not thinking about not being able to comply. Is there even a mechanism to question why he should have to comply?

Mr. Magda: There is no mechanism that I am aware of.

Mr. J. M. Johnson: The point may well be that your board should expand and that there should be such a mechanism.

The Vice-Chairman: One of the things we were apprised of was that apparently legislation provides that members may be civil servants. I realize none of the members are now. I take it you have very definite views that they should not be.

Mr. Magda: My own personal view is no, they should not be.

The Vice-Chairman: One of the things this committee does in its assessment is to inquire whether there are any changes in the legislation that you suggest should be made. Often people who appear before us will say, "Well, if I had my druthers, I would rather have the legislation this way and we could better do our job."

Is there anything you would suggest to this committee with respect to ways the legislation under which you operate should be changed, either by deleting things or by adding things?

Mr. Magda: For the specific purpose of the acts, I think

the procedure is fine when we are dealing with licence renewals or proposals to revoke and so forth. But if there are these difficulties that Mr. Johnson and Mr. Breagh have brought up, for which some recourse should be had, yes, I could recommend a more expanded role for the board, dealing with matters of something less than a revocation or proposals not to review--in other words, to give an operator or an owner of a nursing home somewhere to go before he has to take the drastic step of saying, "I give up," or "I cannot possibly comply; revoke my licence." I think the role of the board could be expanded in that regard.

The Vice-Chairman: Okay. Is it that board or is there another body that can help us create it? Does it put the board in the situation of judging itself? If the mandate of the board were to be expanded to take care of the things Mr. Johnson and Mr. Breagh have brought up--the complaints, whatever they are--and if you were to hear those and make a decision and then the ministry came along and still said, "But we are going to take your licence away again," and the board still sat on that, would you not find yourself in the position of sitting in judgement of a decision the board had already made?

Maybe I should not wander that far in speculation but, to me, you may put yourself into a potential conflict of interest if the board makes decisions at a lower level and then comes back to it for a decision again.

Mr. Magda: If your question is directed to the same nursing home--let us say we heard some evidence that there was a structural deficiency the minister wanted corrected, it was not being corrected and it came to our board--we would make a decision on whether it should be at that level. The minister would then, with that very home, have to propose to revoke a licence, and we might have to hear it again. But this would be very unlikely if the board had decided it was not sufficiently grave to demand a work order to correct it; it would really be difficult for the minister then to turn around and say, "All right, we are going to revoke," because he would not have anything to go on.

Theoretically there may be that difficulty because of a possible overlap in the same home, let us say. But if someone goes to a tribunal and makes a proposal and the board says, "You have not got the evidence to establish your position," it is extremely unlikely that it would then take the more serious step of saying, "Well, then, we are going to revoke the licence." The indication has been made that you are not going to get very far. But theoretically it is possible.

The Vice-Chairman: Does anyone else have any questions?

Mr. Epp: Yes, I have just one question. In the course of a hearing do you visit the nursing home?

Mr. Magda: No.

Mr. Epp: You never do?

Mr. Magda: No. We could if we wished to, but we have not had occasion to.

Mr. Epp: As part of your educational process for your members do you visit any nursing homes? I do not mean the ones directly related to a hearing, but as an educational process to know what you are talking about or what kinds of problems you might encounter?

11:30 a.m.

Mr. Magda: Since the appointment of the members of the board, I am sure we have looked a little more closely at nursing homes in the community by walking around and taking a look; but no, in the spirit of keeping our objectivity, we should determine whatever comes before us on the evidence presented to us. It is difficult to maintain your objectivity if you are familiar with a certain place, if you know what I mean.

Mr. Epp: I presume that one of the conditions of being a board member is that you do not have any connection whatsoever with a nursing home.

Mr. Magda: That is correct.

Mr. Epp: Since you have only had one case and a few others, you would not have anybody declaring any conflicts of interest.

Mr. Magda: On your question of whether we have been to nursing homes, the board has enough flexibility that, say there was a case before us where some structural deficiencies were alleged and they were poorly described by the evidence so that we could not make up our mind, there is nothing to prevent us from getting the board members together, going in and taking a look. There is nothing there to prevent us from doing that. If the occasion arose, we would do so.

Mr. Epp: I presume, Mr. Magda, you have a fairly good relationship with the minister and with the ministry.

Mr. Magda: I have met the minister once, if you want to call that a relationship. I had to introduce myself, of course; he did not know me and I did not know him.

Mr. Epp: The reason I say this is that I need some more nursing home beds in my constituency and I am having difficulty lobbying. I am just wondering whether I could hire you to do some lobbying for me so that I could get some more units there. Seriously, you do not have to answer that.

The Vice-Chairman: Do we have any other questions? Any questions, Mr. Rotenberg?

Mr. Rotenberg: I got here just in time.

The Vice-Chairman: I was not going to mention the fact.

If no one has any further questions, I would like to thank Mr. Magda and Miss Hastings for coming before us. There is no use in carrying on if the questions have run out. We thank you very much for your participation in this committee, and we wish you well in your judgements, contemplations or whatever you wish to use as you carry on your duties.

Mr. Magda: Thank you, Mr. Chairman.

The Vice-Chairman: Do we have any administrative matters to be brought forward?

Clerk of the Committee: Mr. Chairman, I am delighted to report that in conversation with the folks in the National Assembly of Quebec, they assure us that we will be knee-deep in députés in our meetings; there will be all kinds of fellow politicians to converse with. Other than that, we are still making arrangements for the return flight.

The Vice-Chairman: Are there any other comments? We then stand adjourned till 10 o'clock next Monday morning.

The committee adjourned at 11:33 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
GAME AND FISH HEARING BOARD

MONDAY, FEBRUARY 20, 1984

Morning sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Hennessy, M. (Fort William PC)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Lupusella, A. (Dovercourt NDP)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Sheppard, H. N. (Northumberland PC)

Substitution:

Van Horne, R. G. (London North L) for Mr. Epp

Clerk pro tem: White, G.

Staff:

Eichmanis, J., Researcher, Legislative Library
Kilpatrick, M., Researcher, Legislative Library

From the Ministry of Agriculture and Food:

Huff, M., Chairman and General Manager, Crop Insurance and
Stabilization

Regan, W. K., Assistant General Manager, Crop Insurance and
Stabilization

Witnesses:

From the Crop Insurance Commission of Ontario:

Delanghe, H., Member

Hawley, R., Member

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Monday, February 20, 1984

The committee met at 10:08 a.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
GAME AND FISH HEARING BOARD

Mr. Chairman: Gentlemen, seeing a quorum, I think we can start this morning. We have in front of us the Game and Fish Hearing Board, Mr. Edwards, Mr. Hawke and Mr. Empey. One of you will be leading off. Would you identify which of you is which? Do you have a statement to start?

Mr. Edwards: We have a short one.

Mr. Chairman: Fine, thank you. Would you identify yourself and your members and then carry on.

Mr. Edwards: My name is Tom Edwards. I am the chairman of the Game and Fish Hearing Board. On my left is Mr. Norm Hawke, who is the secretary of the board, and on my right is Mr. Don Empey. Two members are missing, Mr. Ken Stevens from Kenora and Mr. Mel Huddlestone from Petrolia.

The board was first appointed by order in council on May 6, 1975. It consisted of five members: myself as chairman, Al Baldwin, Norm Hawke, Mel Huddlestone and Ken Stevens. Al Baldwin retired, and Don Empey on my right was appointed in his place.

The operation of the board is set out in the Game and Fish Act. It has a maximum of five members and requires three for a quorum.

I have a list of the number of hearings we have had during the years. I do not know whether you want to know that or not. In 1975 we had four; in 1976, 10; in 1977, 16; in 1978, 23; in 1979, 11; in 1980, 22; in 1981, 26--there must have been a lot of problems in 1981--in 1982, 11; in 1983, 13; and we have had one this year so far. That is a total of 137 hearings since 1975.

I believe there were a couple of questions on the back of the report you have. What matters are taken into account when reporting to the minister? That is one thing this board does. We report directly to the minister. We do not make any decisions on our own. We just make a recommendation to the Minister of Natural Resources (Mr. Pope).

The board reviews the evidence and considers whether the appellant has been treated fairly and equitably by the ministry staff, if any undue hardship has been created or if the decision is going to interfere with the proper management of the wildlife resources in Ontario.

The only proposal to amend the act we might put forward to you is that through the years the board has always felt it perhaps should have the power to hear cases and make a final decision rather than just make a recommendation to the minister. That is not really very important, but the board members feel that sometimes we hear these cases and then all we do is make a recommendation to the minister. He can either accept our recommendation or overrule it.

I think that is all I have to say at present.

Mr. Breaugh: A couple of things come to mind in reviewing the staff report and a couple of comments you have made today.

I am at a bit of a loss to understand why we have the Game and Fish Hearing Board. If you were adjudicating a dispute and if you made a final decision, it seems to me there is justification for saying: "Whenever the ministry, that is, the minister, declines to grant a licence or cancels one, we want to arbitrate this dispute. So we will kick it outside to an impartial panel of people who are taking the place of a court."

In another circumstance, if you did not get what you wanted and you thought you had been maligned somehow in the process, you could always go to court to sue or do whatever. I do not understand why we have a hearing board which, in effect, reports to the guy who turned down the licence, in a technical sense, in the first place anyway. Can you explain why we do this?

Mr. Edwards: I think it is to look for injustices in the system. We report to the minister himself. He does not necessarily refuse the licence. Out in the field some commercial fisherman or trapper may have his licence refused just because a conservation officer does not like him. There could be many injustices. If he feels an injustice has been done to him, he has the right to appeal to our board. Then we hear the evidence from both sides fairly and make a decision and recommendation to the minister.

Mr. Breaugh: My problem with that is, suppose a police officer pulls me over tonight on the way home and says, "Mike, you were speeding." I say: "Gee, I sure was not speeding. What do you mean?" He says, "Okay, I will let you go before a board that will report to the Solicitor General and it will decide whether you were speeding." That does not do much for me, for my purposes. When a police officer stops me, he represents the government of Ontario. It is much akin to saying, "I will call my sergeant in and see whether the sergeant agrees with me or with you."

What I am looking for is some rationale for why we retain this thing inside the ministry. I could justify it if it were impartial, if your decisions were binding. For example, I view you--and nobody else would do this--as a bit of a kangaroo court. First, the fish and game guy gets me. Then three people who are appointed by the same ministry get hold of me to see whether I got a fair deal or not.

I know you would try to be fair and impartial, but I am the kind of guy who says, "Listen, if you are going to give me a hearing, get me away from these folks. Get me before some neutral body, somebody who is not appointed by the same government." It seems to me your chance to be seen as being fair in the public eye is next to nil. Do many people complain about this?

Mr. Edwards: Through the years we have had very little complaint. We have gathered that most people go away from the hearing feeling they have been treated very fairly and are quite satisfied. We might get rumbling from the odd person, indicating he feels it is just someone else sent down from Queen's Park and that he is batting his head against the wall.

Do you not think this is so, Mr. Hawke? Do you not think that, generally across the board, most people have felt they have had a good hearing and that it has done some good?

Mr. Hawke: That is right. You did not mention this, but we have ruled, if one wants to call it a ruling, in favour of the appellant just as often as we have in favour of the ministry.

Mr. Breaugh: Do you happen to have any numbers on that? Do you know in how many cases you upheld the ministry's initial opinion and how many you turned down?

Mr. Edwards: No, I do not.

Mr. Hawke: Just off the top of my head, I would say probably 60 to 40 in favour of backing up the ministry.

Mr. Edwards: There is one thing that is a little different from what you were comparing it to--going to court if you broke the Highway Traffic Act. In many of our cases the person has not committed any violation of the Game and Fish Act. He is not there because he has done something wrong. He is there because the ministry felt it had to remove the licence or not grant him a licence in order to preserve the natural resource.

It is not that he has necessarily done something wrong, but he thinks because his fellow fishermen are still fishing why should he not be fishing. He does not understand why he cannot have a licence.

Mr. Hawke: Before the birth of this board, the problem was that a person had no recourse if he was refused either a fishing licence or trapping licence. Perhaps he could ask his member to take up his case, but the member probably would have his hands full.

According to the act now, he has the right to appeal before a board if he feels he has been unjustly treated. Prior to that, he did not have any recourse. If the licence was refused that was it, unless his member could intercede for him with the Minister of Natural Resources--not that I am saying these things were ever done, but I have been around long enough to--

Mr. Edwards: To be honest about it, I guess it has probably taken some pressure off the members, has it not?

Mr. Hawke: I think so, yes.

Our main job is to go into these areas and try to determine whether or not the problem has been dealt with fairly. We have found in many cases the problem has not been dealt with fairly. We have recommended the ministry decision be reversed and in most cases the minister acts on our recommendation.

Mr. Breaugh: What kind of information do you have presented to you? Do you get the staff report from the ministry and the appellant gets to come and state his case? Is that how it is done?

Mr. Edwards: It is held like an informal court. We get evidence from the ministry. They usually bring a couple of witnesses with counsel. The appellant either comes by himself or brings a witness and counsel. Sometimes he just comes and represents himself, but they both give their side of the story.

Mr. Breaugh: So you are kind of sitting there in judgement. On the one hand, there are the ministry staff, staff reports and all that and, on the other side, is someone who feels somehow aggrieved.

Mr. Edwards: Yes. Sometimes he comes alone and represents himself and sometimes, if he is a big fishermen--he may have a big operation on Lake Huron or Georgian Bay--he will be represented by counsel.

Mr. Breaugh: How many people would actually get the services of a lawyer to appear before you? Very many?

Mr. Edwards: No, not very many. I would say 10 to 15 per cent.

Mr. Breaugh: I am looking for the balance in the presentation. It strikes me that it would certainly even it up if there was a lawyer present. They usually manage to do that.

10:20 a.m.

Mr. Edwards: We will always bend over backwards to make sure. Sometimes the appellant might be a trapper and not very well educated. We certainly bend over backwards to make sure he has a good chance to express himself and tell his story. We do not try to crucify him.

Mr. Breaugh: I have had a couple of constituents who went before you and they had some difficulty distinguishing whether they had gone to an independent tribunal. They certainly did not feel that way. Basically, they felt that somebody in the ministry had said no to them. The appeal was to go to another group of folks in the ministry, who also said no to them.

They came away feeling pretty sour about it. They had a chance to say their piece, but their impression was that the thing was loaded. It would have been different if they had gone to a group that was seen as totally independent. The basic argument I heard was pretty strong. They said, "Even if the group that heard the appeal thought we were in the right and the ministry was in the wrong, the minister still has to go along with it." It is in that kind of double jeopardy that you get ministry staff who say no. Then you go to a board, which basically is part of the ministry as well, and it says no. In the end it is the minister who says yes or no.

They felt it was unlikely and it would be up to us to look at those statistics to see how many times--

Mr. Edwards: In my last statement to you, I said if the board is going to stay in existence it might be wise to have the act changed so that we have the power of making that independent decision and not just on the recommendation of the minister.

Mr. Breaugh: Yes. Quite frankly, I would like to see two sets of numbers: one, on how many occasions you have upheld or rejected the initial proposal by ministry staff and, two, what the minister does with your recommendations. It would be interesting to see whether we are dealing with a theoretical problem or a practical one.

One final thing. Of all the groups that are around, policing, regulating and doing all of that, I think I get more complaints about fish and game officers than about any other group. I do not know why that is. Perhaps it is because they do have some rather astounding powers to seize, to say no and to do a variety of things. Maybe it is just that when you are on the streets of a city and a police officer stops you, the rules are pretty clear and everybody understands what it is going on, but out in the bush or on a lake the rules do not seem quite so clear and you are not sure whether you are dealing with a police officer or a friendly adviser or whoever. Do you get much evidence before your board that there is a confused image in the public's mind about ministry staff in the field?

Mr. Edwards: I think the people who have come before us have felt sometimes that the conservation officer or whoever is laying down the law does not really use his common sense too much, that all he does is look at what someone higher up tells him to do. He has great powers of discretion. If he likes the guy, he might say, "Yes, you can do it." Right up the line they seem to be able to make their own decisions.

Mr. Breaugh: Quite frankly, I can never sort out whether it is the amount of discretion the officers have or the simple fact that a lot of people I deal with, constituents, would tend to be auto workers who have been hunting and fishing for 30 and 40 years and probably know more about the bush and the lakes and all of that than most people in this room; that is for sure. The officers they are dealing with tend to be very young, just out of

university. They get the general impression that here is a young man or woman in the bush trying to tell an older person who has been at this for 30 years what he can and cannot do. It just does not sit well, whether it is right or wrong. There is a bit of a communications problem there.

Mr. Hawke: Communication is a great factor in the district office. We have found in the past there has been a lack of communication and we have recommended that there be more communication. These officers--and a lot of them are rookies--are feeling their way. There is a policy laid down and they have to know the Game and Fish Act.

They can turn their back on certain things, which probably they do in some cases. We have always found that happens where there is a border line. I can recite a case where we were up in Dryden, I believe it was, not too long ago and there was an experienced trapper of long experience who had been trapping for many years who had laid his traps on some land seven hours before the season came in. It just happened that somebody reported him or the officer was there and apprehended him and took him to court where the trapper was fined. According to the act, the minister has the right to cancel his licence, which was done.

He came before us with an appeal and we felt, in fairness, that we were standing on a very thin line. Judging by the man's experience, he was a good trapper. The ministry people admitted he was good in the way of co-operation and conservation, but he just happened to do that and he had a good reason for it.

Goose hunters were in there and were pot-shotting at his beavers. We thought that was a little much, so we recommended to the minister that this man's licence be restored on that basis and the minister restored it. If the board had not made that recommendation, the man would have just been out of it.

Mr. Breaugh: I think that is the other area where there is really a problem. There is a fair amount of discretion on the part of the officers and there is also a slim chance of getting caught, so very often people say: "There are a lot of people doing this. Why am I the one who is caught?"

If you are caught for speeding going up the Don Valley, the assumption is that if you speed you are going to be caught. There are lots of police officers around there. If you are the one person out of 100 who was nailed for speeding, you might look around and ask, "What happened to the other 99?"

Would it be a major piece of research or relatively easy to find out and provide the committee with information about the number of cases heard--you have that--the number of cases where you upheld the ministry's initial decision, and the number of cases where you overturned it? The second part of that is the number of occasions when the minister upheld your decision or overturned it.

Mr. Edwards: I could research that and provide it to you.

Mr. Breagh: Thank you.

Mr. Hawke: That is a fair amount of work, but I think since the board's inception there have only been three times when the ministry has overruled our decision, when we have ruled in favour of the appellant. There have only been two or three cases during that length of time.

Mr. Van Horne: I have a supplementary point on communication and your response that at times it is a problem. We are talking now about the ability of one person to express thoughts and ideas to another and the fact that age discrepancy or the different lot in life sometimes presents problems; for example, a young guy talking to a old guy or an auto worker talking to one of your officers.

Do you do any in-service training? Do you or the ministry provide any training for your people to help them over this problem, if communication is a concern?

Mr. Hawke: We have recommended that they pull up their socks and communicate a little better. We have occasions where we find that the appellant has not been advised as to the circumstances whereby he does not live up to his quota, particularly in trapping. We will take a note of a man who has been on the land for a good many years and, all of a sudden, for some reason or the other he is sick, he cannot get out on his land and he falls behind on his quota. He is supposed to harvest 75 per cent of his allotted quota. If he does not do that, his licence is automatically cancelled.

We have found that the ministry people have not properly apprised that trapper of the circumstances and what the penalty is. Perhaps because they are little bit illiterate and not too well educated, the ministry figures they are old trappers who have been on the land for a good many years, and things just go along.

10:30 a.m.

This last year we were at Thunder Bay. There was a case where an old trapper I think was crowding 80 years. He wanted to hand a licence down to his grandson who had trapped with him for a number of years. The licence was cancelled, taken away from him and given to someone else. When we questioned that trapper, he seemed to be in the dark; he did not know what was going on.

We have the right to cross-examine the ministry and the appellant and their witnesses. We were of the mind the man had not really been advised. There was a lack of communication on the part of the environmental people. They get a letter out perhaps once every four or five years when a policy changes, but that is it. We recommended that man retain his licence and his grandson should be allowed to (inaudible) on it. We have not had the results yet.

Mr. Van Horne: The point I would try to make is that, if communication is a growing or continuing problem, someone in the ministry may have to recommend something more than pulling up socks. You cannot say to a kid who does not swim well, "Swim

better," without some kind of directional instruction. It may well be that is the direction in which you are going to have to go and make some recommendations for in-service training for the ministry people so they can communicate better.

Mr. Hawke: They are attending seminars. There are classes all over the place. It is common sense there should be a public relations factor in these things. Through the years, ministry fellows themselves admit they have got into some lackadaisical ways. Because this board has been pretty strong on that and made recommendations, they admit they have had to be on the ball a little more.

This last case was the first time this Geraldton district office was involved and the board was new to them. I think if a decision is rendered, we will recommend they be a little more cognizant of the fact they have a job to do in public relations.

Mr. Breaugh: There is a final piece of business I would like to discuss for a minute.

Essentially you are the people who will either put someone out of business or have him stay in business. I am a little concerned. I would not be concerned if that was not an element here.

In a couple of cases I am familiar with, they were people who were experienced fishermen, had gone through some economic difficulty in another field and fell back on the ability to fish for a living. They really felt much as you just said, that somebody had put restrictions on them which made it impossible to earn a living. A guy had his licence cancelled and he was not sure at the end of the process that he had had a fair hearing.

That is the central thing which concerns me. Even though it seems a little unusual for most of us, I suppose, we are talking about someone's livelihood, and the approach to whether someone gets a licence or loses a licence is not well understood by those people, in my experience. The process is a little on the casual side for my taste and it is held within the ministry.

It seems to me from a number of points of view there is some unfairness no matter how much you might try to give them a fair hearing and no matter how well you adjudicate a dispute of that nature. There are two or three vital elements missing. I am wondering whether I am dealing with one or two isolated cases or whether it is a fairly common perception.

Mr. Hawke: It is just human nature. If a fisherman or trapper asks for a hearing before this board, he is there for a reason. They feel they have been dealt with unfairly. We have to keep in mind the ministry is trying to manage the resources and take all the factors into consideration.

As a group of people, I can say we are compassionate and we understand human nature pretty well. We know when a man is experiencing hardship and we take those things into consideration. If it turns out we do not recommend in the appellant's favour,

naturally he is going to be disappointed and say, "I did not get a square deal."

On the other hand, personally I have had letters from fishermen and trappers thanking us for the hearing and the way things turned out. Where do you draw the line?

Mr. Breaugh: It is a tough call, I agree with you.

Mr. Edwards: Can I say one more thing, Mr. Chairman?

Mr. Chairman: Yes, certainly.

Mr. Edwards: I would say that in many cases the appellant comes before us not understanding really why the licence could not be granted to him or why it had to be removed from him. After he has been to the hearing and has sat through a controlled situation where he has to sit and listen to all the others, I suspect in many cases, half way through the hearing, he knows he is wrong. All he is doing is being educated there and he has never really had a chance or has never really sat down in a controlled situation and listened so he could understand why the licence was removed or could not be granted.

Sometimes we talk about the young people coming in, biologists and so on, but all some of the fishermen know is what they have learned. They have no understanding of the broad picture of what the ministry is trying to do. They just think there are lots of fish out there and that there is no end to them. Sometimes they get a good education and understand why they cannot have a licence.

Mr. Breaugh: I think part of the problem is that in some businesses the introduction of government regulations is understood and it is a normal part of the daily working life. For someone who is a trapper or fisherman, that is a long way away from writing rules and regulations. When some young person comes up to them on a river or a lake and says, "You can fish over here but you cannot fish over here," or, "During these hours you can and during these hours you cannot," it is an unnatural intrusion into what that person has been used to for a lifetime.

The people I know are fiercely independent and totally reject regulation of any kind. They are unfamiliar with the paper flow process here at Queen's Park and the whole aura is unfamiliar turf for them. It is a very small part of their life and it is very difficult even to try to establish the connection. As you say, maybe half way through a hearing, they get some inkling as to why they are there.

Mr. Mancini: I am assuming from the questions that were asked by Mr. Breaugh that he was concentrating mainly on northern Ontario matters and the trapping and fishing licences in that area. I would like to change the focus somewhat and move the discussion to Lake Erie fishing situation.

I am assuming you gentlemen would also have authority to cover situations in that area. I am assuming you are also familiar

with the minister's modernization plan. Have you had much input into that?

Mr. Hawke: We have been made aware of it. It is not implemented yet.

Mr. Mancini: We have been quite involved in the modernization plan--not so much in its preparation, but in responding to what the ministry wants to do there. It has been quite some time since there have been commercial fishing licences granted in the Lake Erie commercial fishing industry, which I believe has been the proper thing to do. The industry is quite large and the efficiency of the present fishermen has improved substantially over the years and these days they can get a pretty big catch on a daily basis.

10:40 a.m.

I was wondering if any of the commercial fishermen who fish in the Lake Erie basin have ever appeared before your board for either a licence cancellation or any type of penalty of that nature?

Mr. Edwards: We have had applications for trawling.

Mr. Hawke: We have had several hearings that involved the Lake Erie fishermen through the years, not so much last year though, because I understand there has been a stop put on all licensing for Lake Erie.

Mr. Mancini: It has been quite some time since they have given out any new licences. I was wondering about two things. I am certainly not in favour of new licences. I do not think the lake could handle it. At least we do not know if the lake could handle it. That being the case, we should not give out any new licences.

During this period of time where new licences have not been issued, I am interested in whether or not the people interested in obtaining licences have appeared before your board in the recent past and if people who have possibly had licences cancelled or somehow been penalized by the minister have recently appeared before your board. If you can give me a couple of examples of what happened or what you did with them, it would be appreciated.

Mr. Edwards: We had an application from a chap wanting to establish a trawling licence.

Mr. Mancini: Was that over on Pelee Island?

Mr. Edwards: No. I cannot remember the exact area.

Mr. Mancini: So that is basically the only type of activity you have had--individuals interested in the trawling licences?

Mr. Edwards: Yes. We felt that the ministry was on track. We agreed with the ministry that there should be no new trawl licences.

Mr. Mancini: I have made quite a bit of representation to the minister on behalf of different commercial fisherman who are either selling or buying licences, and with part of the modernization plan being accepted, of course, no licences could be transferred or bought or sold or what have you without the minister's direct approval. I guess now he literally approves every single transfer or the buying and selling of every single licence.

I was wondering if you, the board, had any input into that. If he is going to do all of it, period, I am not sure there would be any need for them to come to you if you are not involved. I have had situations where a good deal of time has transpired before the licences have been bought or sold and all the things have been finalized.

I do not think I have run into a situation where we have absolutely not been able to do it, but we are running into a very timely situation. I am not saying that the minister is not doing a good job in this respect, but he has a lot on his plate. If he personally is going to approve all of these, with his wide area of responsibility, time is going to become even more of a problem. We are talking several hundred thousand dollars. The way the commercial fishing industry is now in Lake Erie, I do not think you can get a licence for less than \$300,000, so we are talking big money and there are a lot of things at stake here.

Mr. Empey: Licences are not bought and sold.

Mr. Mancini: Yes, you are correct in theory, but in practice you are incorrect. No one will buy an old tugboat for \$300,000 if you cannot even get its motor started in the morning. You cannot obtain fish from the lake on a commercial basis unless you have a licence, and there are only so many licences in existence.

Whether we close our eyes to the fact that the licences are sold, or whether or not we want to try to pretend that it is the businesses that are being sold, that to me is neither here nor there. The actual fact of the matter is that licences are sold; definitely they are sold. I thought anybody who is realistic and who knows the industry will agree with me.

Getting back to my question, with the minister now making all of the final decisions and with having so much on his plate already, I was wondering if there was any role here for you people to play to expedite these transfers of licences or to help the minister in some way.

Mr. Edwards: So far we have not had that role at all. The only time we come into play is when the particular fisherman has tried to do something like that and has been turned down, feels he has had an injustice done to him and appeals the decision. That is the only time we would hear from him.

Mr. Mancini: You are not helping the minister in any way in preparing any information?

Mr. Edwards: No.

Mr. Mancini: Would you like to do something like that? Is it possible for some of this work to be given to your board? From my questioning, it seems you are not very busy with the Lake Erie situation.

Mr. Edwards: We are only set up as a--

Mr. Lupusella: That is your decision (inaudible) if you think it is necessary that such a recommendation should be made and that they would follow suit.

Mr. Mancini: That is right. As soon as we take over the government we will change things.

Mr. Hawke: --being secretary, I have to do my own typing, and there is quite a bit of correspondence and co-ordination related to this thing. Really we are doing a public service here the same as you people, only we are working for a lot less pay than you fellows are.

Mr. Edwards: They do a lot more work, though, Norm.

Mr. Mancini: He is not so sure about that.

Mr. Hawke: They are asking us to be involved in a lot of clerical work and so on and in preparing information for the ministry. Well, we do. Mr. Edwards makes a report after a hearing. We get together and spend considerable time on the merits of the case and we have to come up with an answer, and Mr. Edwards makes a report on it.

It is also our mandate and responsibility to make recommendations to the minister as to how he might improve the system down the line. We have done that, and in some cases they have implemented them. But beyond that, getting involved to the point you suggest, I would say that is impractical for us.

Mr. Breaugh: Just to correct the record, the record should show that the per diem for members of this committee is \$60. The per diem for the chairman of the Game and Fish Hearing Board is \$125, and the other members receive \$85 a day.

Mr. Hawke: Where did you see that? We have some retroactive pay coming then.

Mr. Mancini: Our researcher told us--

Mr. Hawke: You are fishing--without a licence.

Interjections.

Mr. Edwards: The members are \$85 a day and the chairman is \$125?

Mr. Breaugh: That is what it says here.

Mr. Edwards: Yes, that is correct.

Mr. McLean: We are getting only \$60.

Interjections.

Mr. Mancini: With the direction the fishing industry is going now and with the costs associated with the commercial fishing industry in Lake Erie, I believe the time is emerging when the fishermen will probably have to have two and three licences to make their operations viable financially with the amount of money that is needed to get into the business. I was wondering if you had had any thought or had established any policy on how you would, to the best of your ability, distribute evenly the licences that are available, because we would not want, say, half the licences getting into the hands of one corporation or one group of individuals.

10:50 a.m.

I could see that, because of the cost, the individuals or the corporations in the fishing industry are probably going to need two or three licences to make these things go. I certainly would not want to speak against that, but I am very concerned about the industry, or a good part of it, being taken over completely. I was wondering if you had noticed this yourselves or if you have had any thoughts on this at all because, as soon as people are refused, they may be making appeals to your board, and I would like to know your general feelings on this.

Mr. Hawke: It is pretty difficult for us to assess a thing like that in advance before we have all the facts. We understand that shortly there will be some regulations with regard to quotas, but we do not have any basic information in front of us. We talked about it with some of the members of the fishery.

Beyond that, we are not aware of what exactly is going on. We are always concerned about not only the large fisherman but the small fisherman too. We have to consider the fisherman who has been in the business for years and years and raised his family and then gradually finds himself to be a small fisherman. We have be a little compassionate towards him.

It is hard to take away the licence of a man who has been fishing all his life when it is not going to mean very much depletion of the resource. We try to let the man live out his life in peace and do what he has always been doing. To take away his licence is to take away his life along with it.

All things being equal, there are times when you cannot do that. I can cite one instance of a fellow from Toronto in his eighties who had been a fisherman all his life. He was setting out lines and he had a licence to catch eels. Eels are contaminated and it is prohibited to sell them. They are not even fit to eat, apparently. This old fellow stated, and these people are all under

oath, he had been eating eels every day all his life, and he was a very healthy-looking specimen.

We had a break and discussed the matter. This man was just using a rowboat. He had a small cabin on the edge of Lake Ontario. That was his pastime as well as catching a few eels. We decided to recommend leaving his licence alone. Later on in the hearing we happened to ask him what he did with the eels he caught. He said, "I sell them to restaurants in Toronto." What could we do? He was breaking the law. We had to recommend that he did not get the licence. If he had kept quiet, he would probably be fishing yet. Those things enter into it from time to time.

Mr. Breaugh: It sounds like a lot of politicians I know.

Interjections.

Mr. Hawke: That is a different kind of fishing. That is poaching, is it not?

Mr. Empey: As I understand it, you were asking us if we proposed some of the policy to the ministry. We would not be a board if we did that. If a hearing comes to us and something comes out of the hearing that looks like something that could be changed for the good of the public and the ministry, we might put in our two cents worth. Whether we are supposed to or not, I do not know. We do once in a while.

If we were to tell the ministry right off the cuff what it should do with Lake Erie or any other place, we would fail to be a hearing board. The ministry makes the policy. If somebody appeals, we make every effort to see he has a fair hearing and is treated fairly, that the ministry has not abused its privilege by refusing him or modifying whatever he has.

Mr. Lupusella: Mr. Mancini, are you implying the board is not independent?

Mr. Mancini: No, I was trying to discuss the modernization plan proposed by the ministry. It is going to have many far-reaching effects. One of the effects we have seen already is the time lag in the transfer of licences. I am very concerned about that because of the amount of money involved.

Mr. Hawke: Actually, that has not happened yet. We know the new program allows for transfer of licences and the sale of licences, if you sell your fishery, but we as a board have to assess each individual case as it comes before us. We really do not know what we are up against yet if the board continues.

Mr. Mancini: We are in the area now where it takes several months to transfer a licence. If you sell a licence in September and you want to get ready for the spring fishing, you should be ready by the end of February, if you are any kind of fisherman at all. You want to have all your bank financing in place. You want to have your captain, whom you may have to import from another country, ready. You want to have your crew ready.

There are many aspects of the commercial fishing industry that would affect the operation. If we are selling licences or trying to transfer licences, and we start in September and cannot get it done before the end of February, we are just screwing up a lot.

Mr. Hawke: I understand what you mean. I cannot comprehend why that should happen because the licence transfer is at the discretion of the minister and the minister's representatives at the district office level. They are the ones who implement the transfer. Why they should hold it up if they agree to a transfer, I do not know.

The fisherman can ask for a transfer and they can issue him an official notice of a refusal to transfer and the reasons thereby and notify him that he can have a hearing before the board.

Mr. Mancini: I do not think it is because of any devious reasons.

Mr. Hawke: Maybe they are dragging their feet.

Mr. Mancini: No. There is the modernization plan and the importance of the commercial fishing industry, the sports fishing industry view of the commercial fishing industry and the general public not wanting to have the lake raped beyond any repair so that the general public cannot use it. There is that perception out there that it is possible. I do not believe it is, but there is the perception out there it is possible.

The minister has decided he will transfer these licences, which is fine; the buck stops there. But he has a lot on his plate. As far as I am concerned, you people should be involved in these affairs on an ongoing basis, and I think it would be appropriate for some input from you to help expedite the transfer of these licences.

There are many other questions I was going to pose to you about the modernization plan, how it affected the transfer of licences, the concentration of licences, how this was going to affect the processing industry and the export industry, but I can see your role is so limited you are not the right body to pose these questions to.

Mr. Edwards: I understand before the ministry people set these new policies, they do try to involve the commercial fishermen's associations and get their input.

Mr. Mancini: Yes, that is true. I am just trying to think of ways to help the minister streamline the process. That is all.

Mr. Lupusella: Mr. Chairman, if I may, I would like to get into the activities of the board.

How many people sit on the board?

Mr. Edwards: We have five members.

Mr. Lupusella: For how long do they have their appointments? For one year? For two years? When will their appointments expire?

Mr. Edwards: That is something we are not sure about. There are four members on the board who were appointed in 1975. We have had no communication on whether or not we come up for reappointment every three years. We just have been continuing on until someone fires us.

Mr. Lupusella: Actually, the appointment is on a permanent basis more or less.

Mr. Edwards: It appears to be. I wonder if we might be replaced at any time. I really do not know.

11 a.m.

Mr. Lupusella: What about your budget for 1983? How much was it?

Mr. Edwards: Of course, we do not really have a budget. We do not set the budget, but our expenses in 1982-83 were \$26,067. Those were the total expenses.

Mr. Lupusella: Do you travel across Ontario to all the hearings or do you have the main branch here in Toronto and the people appear before you?

Mr. Edwards: If the appellant comes from southern Ontario, we try to hold the hearing in Toronto because the members of the board are scattered around the province and the counsel for the ministry usually come from Toronto. They do not have to travel. If it is in northwestern Ontario, we usually go there.

Mr. Lupusella: How many hearings did you have in 1982-83?

Mr. Edwards: I think the ministry or the government keeps track of it for its year, but I have kept track of it for a calendar year. In 1983 we had 13 hearings and in 1982 we had 11 hearings. In 1981 it was 26 hearings. That was a rather heavy year.

Mr. Lupusella: How many licences were involved in 1983 as a result of these hearings?

Mr. Edwards: I am sorry. I cannot give you that figure.

Mr. Lupusella: How many licences?

Interjection: You have a number of hearings--

Mr. Lupusella: As a result of a hearing, sometimes the licence is suspended or revoked. Am I correct?

Mr. Edwards: Yes. I am sorry, I did not bring that figure with me.

Mr. Lupusella: Maybe we can get that information. Therefore, you do not have any information on how many licences were reinstated by the minister when the board took a decision that the licence was supposed to be revoked.

Mr. Edwards: I cannot honestly give you that figure. I can get it for you, but I did not bring it with me.

Mr. Lupusella: Do you hold seminars among the people--

Mr. Chairman: Excuse me, Mr. Lupusella, but I think there might be a clarification there. These gentlemen normally would not have the number of licences revoked because they do not revoke them. They only recommend to the minister. How many actually were revoked or stayed revoked would probably be in the minister's office.

Mr. Lupusella: I understand the procedure, but I am sure the minister is kind enough to give the information to the board as to whether or not a licence was revoked.

Mr. Edwards: Yes, we have that information. He always replies. We get a copy of his letter to the appellant, saying whether he has concurred with our decision or whether he has gone against it. In the majority of cases he goes along with what we recommend, but I cannot tell you the actual figures as to whether it was, say, once in 1983 he went against it without looking it up. But we can get you that figure.

Mr. Hawke: As to the number of licences that are revoked that are never appealed, they do not come before the board.

Mr. Lupusella: They go through the minister, but the minister will inform the board that the licence was reinstated.

Mr. Hawke: Not the ones that--

Mr. Edwards: Any appeals, though.

Mr. Hawke: Any appeals, yes.

Mr. Edwards: That is what he wants.

Mr. Hawke: What I am saying is there are a great number of licences that are revoked or refused that never come before this board for the simple reason that a fisherman does not feel he wants to appeal it.

Mr. Lupusella: If someone applies for a licence and the minister refuses the licence, he can appeal the decision before the board.

Mr. Edwards: Yes.

Mr. Lupusella: It is a regular procedure. Do you have the power to call seminars on how long these people hold licences? You do not do that?

Mr. Edwards: No. It is not in our mandate. Do you mean for us to try to educate people?

Mr. Lupusella: Yes. The Workers' Compensation Board must have a mandate to call seminars on prevention of accidents, but they do call seminars across Ontario. Did you ever make such a request of the minister to get such a mandate--

Mr. Edwards: No.

Mr. Lupusella: --which should not be incorporated in the act.

Mr. Edwards: No, we have not.

Mr. Lupusella: It is just permissive and nothing else.

Mr. Edwards: No.

Mr. Lupusella: The reason I am raising this with the board is I am particularly concerned that the fish caught in Ontario might end up on our table. As we are aware, the lakes are extremely polluted. I am not particularly sure whether or not the person who has a licence knows where to go to fish. I think it is the duty of the board to call seminars and educate this type of person about the high level of pollution in certain areas. Is the licence granted by the minister restricted to a particular place or can the person go wherever he wants?

Mr. Edwards: No. Usually it is restricted to a certain area that is granted to him. I would say the Ministry of Natural Resources spends a great sum of money in educating the public and the fishermen about the contaminants in fish, and so on.

Mr. Lupusella: I saw the leaflets which are arriving at my office, as well, but there is nothing imposed as to whether or not a person should be limited to areas where the content of pollution is high or low, and so on. It is part of their will to go wherever they want. Even if the fish which is caught is highly polluted, it could end up on my table and I could end up eating it.

Do you not think the minister, in co-operation with the board, should have a mandate to limit the role of the operation of a licence to places where there is a high content of pollution to protect the public?

Mr. Empey: Sir, there have been places in Ontario where they have been shut right off. They would not hinder you, as an individual, going in and catching some fish and eating them, but as far as commercial purposes go, it is closed.

The fishermen in the commercial industry know where the fish are and they know how to catch them--

Mr. Lupusella: I do not question that.

Mr. Empey: --and they are monitored by the board of health. Any time the contaminant level rises above the level acceptable in Canada, they cannot be sold, except in the eel fishing, which is concentrated in the Quinte area. For a time they were at an unacceptable level for Canada, but it was an acceptable level for Europe. All eels went to Europe under bond out of Montreal for about two years. Then Germany lowered the acceptable level, and the market just shut right off. There are no eels at all. I mean, there are eels there, but they cannot be caught and sold as food.

Mr. Lupusella: Do you not think such procedures should fall under your jurisdiction in order that everything will be under control, instead of relying on decisions taken by another ministry? Actually, if you take away a licence from an operator who is fishing in an area in which there is a high level of contamination, and so on, you make sure this individual will not bring polluted fish to people's tables. But if you rely on the information of the department of health, they do not have any power to take away the licence. I think you should have such jurisdiction and not somebody else.

Mr. Hawke: Where would we get our information in regard to pollution in various areas? We do not have access, except through the biologists of the ministry.

Mr. Lupusella: It is based on the leaflets, again.

Mr. Hawke: The ministry does have seminars in co-operation with the various fishermen's associations, and they work these things out together. I do not think it is really necessary for the board to do those things.

The same thing applies with trapping. The ministry puts on trapping seminars for the benefit of the trappers. If they do not want to go, of course, that is up to them. The same thing applies to the fishermen. Most of the commercial fishermen belong to the Ontario Council of Commercial Fisheries and there is a liaison between the two bodies.

11:10 a.m.

Mr. Breough: Have you not had a hearing that involves a cancellation of licences for health reasons?

Mr. Hawke: No.

Mr. Breough: No one has ever challenged that through your board?

Mr. Hawke: No.

Mr. Breough: So basically the industry accepts restrictions that are placed on licences by a board of health, the Ministry of the Environment or someone else.

Mr. Hawke: That is a very big area. For the board to undertake that, it would have to have biologists at its disposal.

Mr. Breaugh: You have never had--

Mr. Hawke: No, we have never had it.

Mr. Breaugh: --anyone challenge that?

Mr. Hawke: No.

Mr. Watson: I would like to explore the kinds of things that come before the board on which you make decisions and that separate your decisions from activities that would be proceeded with in a court. In other words, does the minister remove licences for misuse? I am talking about overfishing, taking undersized fish and those kinds of things which would be viewed as breaking the law. Where does your board fit in as compared with a court?

Mr. Edwards: There are lots of times when we have heard of trappers--perhaps not so many commercial fishermen--who will lose their licence for a violation of the Game and Fish Act, but that is done by the court. If he is convicted in court he gets fined and he automatically loses his licence. But that does not come before us.

Quite often when, say, a trapper is not granted a licence for some reason and he feels he is being unjustly treated, he will come before us. When evidence is given, the ministry will say he lost his licence because he was convicted of so-and-so. Even though he was convicted of doing something wrong he thinks he should not lose his licence.

Mr. Watson: Yes. That sets the--

Mr. Edwards: He may have gone to court, been found guilty, paid his fine and still feels that is unjust. For example, if you or I get caught speeding, we go to court, we pay our fine and then continue to drive. But he feels that though he has been found guilty and has paid his fine he loses his licence in addition and that may be too harsh. So he might appeal to us to get it back. Or maybe four years down the road he might appeal to us. The regulations say there must be no conviction for five years. He might think that after three years he has paid his penalty and he should be allowed to go back trapping.

Mr. Watson: Okay. But does the ministry remove licences through an administrative process? Are there cases where they have given the fellow two or three chances and then decide they have warned him enough and are going to remove the licence? I guess it is not your decision, but in the cases that come in front of you have you seen where the ministry could have gone either way? In other words, have you seen where the ministry could have gone to the court system and charged the person or could just have taken his licence away and his only appeal then would be to you?

Mr. Hawke: I think the act states that after conviction the licence may be removed at the discretion of the minister;

there is a little latitude there. As you know, these things come from the district offices. They are sent to the deputy minister and wind up with the minister. I suppose he relies on people working with him to advise him on this, but there is a little latitude there.

Mr. Watson: Okay. When you have a hearing, who normally attends?

Mr. Edwards: Usually the Ministry of Natural Resources will bring one or two witnesses. The witness could be a conservation officer, the man responsible for not granting the licence or perhaps might bring a biologist with some technical information as to why this had to be done. Sometimes they would bring the superior of the conservation officer, along with counsel for the ministry, and the appellant will come, sometimes just himself or he may bring one or two witnesses or sometimes he will bring counsel with him as well.

Mr. Watson: It depends, I suppose, on the seriousness of it.

Mr. Edwards: The appellant has the right to be represented by counsel, but sometimes he chooses not to be, he either cannot afford it or he feels he can represent himself. I think in many cases they have felt very satisfied, that when they come themselves they have been able to represent themselves fairly and to get a good hearing. We bend over backwards to give them a good chance.

Mr. Watson: Do you have a breakdown of the number, in the types of cases you have heard, of how many are fish and how many are game?

Mr. Edwards: I did not bring that with me either.

Mr. Watson: Do you have any ball-park figures on what they are? You mentioned trappers.

Mr. Edwards: I would think it has been heavy--60:40 perhaps?

Mr. Hawke: I was going to say 70.

Mr. Edwards: I am guessing, 60 fishermen and 40 trappers.

Mr. Hawke: Or 70:30.

Mr. Edwards: Maybe 70:30. I am not absolutely sure without checking.

Mr. Hawke: It is in that range anyway.

Mr. Watson: Do you use the same board members for each type of hearing? How many do you have to have for a hearing?

Mr. Edwards: We have to have three for a quorum.

Mr. Watson: Do you use the same board members for a hearing on fishing as you would for one on trapping?

Mr. Edwards: Yes. It depends on who is available. Sometimes you might have five members there, sometimes four, sometimes only three because two chaps cannot go.

Mr. Watson: But if they could all be there, they would be. You do not select and say you are going to take three, do you?

Mr. Edwards: We have not made a practice of doing that. It has averaged out. Everyone is not always available. I have always tried to go. I think I have missed one hearing in seven years because I was appointed chairman and I have tried to be at every one.

Mr. Watson: In the transfer of these licences, I have had some concern with our experience on the Lake St. Clair situation and the fishermen there. Can you recall whether any have come to the board from Lake St. Clair?

Mr. Edwards: A number of years ago.

Mr. Watson: But not recently?

Mr. Edwards: Not recently, no.

Mr. Watson: They were out of business for quite some time because of the mercury thing.

Mr. Edwards: Yes. I believe the ones we did have wanted to get back in after the mercury level went down.

Mr. Watson: The reason one of the transfers was denied down there was that the person who was proposing to take over this licence did not have adequate experience and knowledge to do the job. That was the reason given. Would that be a legitimate kind of case to come before your board if the fellow felt strongly enough about it that he wanted to buy the licence? Well, one does not buy the licence but from a practical point of view you buy the equipment and the licence goes with it. It is not worth very much if the licence does not go with it. Would that be the kind of thing you would hear?

Mr. Edwards: It would be one of the kinds of things, yes.

Mr. Watson: Then what information would you need, for instance, in terms of financial responsibility or experience? On what would you make your judgement? Just the person's testimony?

What I am getting at is it seems that the ministry is going to come in and say it does not think this person has enough experience to operate this commercial fishery, even though it is very small. The fellow buying it says he has spent two summers on it and he thinks he has enough experience. It seems to me we have a standoff there.

Mr. Edwards: I would say that is the type of thing that

could come before us but I do not recall it actually ever happening. It may have, but I cannot recall it happening. Can you recall it?

11:20 a.m.

Mr. Hawke: I think that is entered into the evidence in some cases. I forget, there being so many, but the appellant has the opportunity to spell out his circumstances, and we ought to accept his word on his financial ability and status. It is up to him; he is under oath and we have to take his word for it. There have not been very many, but there have been occasions in which an actual situation has come up in relation to being a viable fisherman.

Mr. Edwards: Many appellants have given evidence that the reason they need the licence back is that they are in dire straits and this is their livelihood. They appeal to our emotions that this is the reason they should have their licence.

I am not sure. Personally I feel we should not make a judgement on that basis. We are not there to decide whether the person should or should not have a licence because he needs it to make a living; we are there to decide whether he has been treated unjustly or not and whether or not it is in the interests of the fish resource, the game resource. We cannot give a licence to everyone just because he needs it to make a living.

Mr. Watson: One of the issues that keeps coming up is the matter of leghold traps in trapping. Has the ministry ever removed a licence from someone who was illegally using leghold traps?

Mr. Edwards: It has never been before us, to my knowledge.

Mr. Chairman: May I ask one question? Regarding the beaver quotas, you mentioned that trappers have to keep up their quotas by trapping 75 per cent of their quotas each year.

First, in the case of illness or bad weather, where they cannot get to the main part of their territory because of poor ice and so on, is latitude given to go below 75 per cent and retain the licence for the next year?

Second, how much adjustment takes place in those quotas? If you trap 75 per cent year in, year out and the beaver get ahead of the trapper in the territory, are they ever adjusted upward? And if so, how often?

Mr. Edwards: Would you like to respond to that, Mr. Empey?

Mr. Empey: This concerns only northern Ontario, because principally the beaver is the biggest point of contention with regard to quotas. Most of the beaver in southern and eastern Ontario are nuisance beaver, so most licences do not have a quota; it is an open quota.

In the north in order to keep what the biologists and the ones in the know feel is necessary to keep nature on an even keel--beaver do a useful thing for ducks and all of the other wildlife, muskrats, with their dams--they set up in some places, according to the area, a beaver and a half per house. In the northern area, where food is scarce or the trees do not grow as tall or where there is more hardwood, they might cut it down to a beaver per house. Yet there are places between the two where there is lots of poplar, which is their natural habitat, where they may give them two beaver per house.

Those beaver are pretty well monitored. When they have enough money they fly the territory and count the number of feed beds or houses, and they get it fairly accurate. If somebody is sick or something of that nature, maybe he will not get all his quota. During the course of the winter, though, they generally have enough time on normal time.

In the past we would see that they give them leeway. They would accept down to 75 per cent, and if the trapper got a few more over, they might look it over and raise the quota. That territory is supporting more beaver.

The appeals we have had were where someone might have gone below his quota for the last three or four years by 30 per cent--maybe one year he got only 50 per cent--and maybe he did not go into the ministry office and tell them why; maybe he was too far away and he did not happen to see anybody. So there are times when they will cancel his licence, and some of those people then appeal to us.

Mr. Chairman: How often is a quota adjusted upwards or downwards in a particular territory?

Mr. Empey: According to the territory. There is no stated time as far as I know. It is ministry policy.

Mr. Chairman: Is it reviewed yearly?

Mr. Edwards: Mr. Chairman, may I respond to that?

Mr. Chairman: Yes.

Mr. Edwards: It is the responsibility of the trapper. If he is a responsible trapper, it is up to him to manage his territory properly. If he has a quota of 50 beaver for his area and he knows they are increasing rapidly and the number should be raised, he should go to the conservation officer and discuss that with him. Usually, the conservation officer will go along with what he says and raise his quota to, say, 75 beaver.

It also works the other way. If the trapper finds he is having trouble making his quota, and the conservation officer feels he has a legitimate case--the feed is going down and the beaver are being depleted--then he will have his quota adjusted downwards. More often than not, it is up to the trapper to discuss this with the conservation officer on an ongoing basis and get the quota adjusted up or down as necessary, and the Ministry of Natural Resources usually does that.

In the case where a trapper goes along for two, three, four or five years and never bothers going to see anyone, the conservation officer may talk to him, but they cannot get along and they do not see eye to eye.

If the trapper does not take his quota for two, three or four years in a row, he will be sent a letter each year saying, "You have to get your quota." If he does not go along with that, in three years' time his licence will be removed. Then he is upset and appeals to us. He cannot understand why his licence has been taken away. That is the way it normally works.

Mr. Chairman: I think our researcher has some questions on policy.

Mr. Eichmanis: If I could just take the example that is used of the beaver, as I understood it, the ministry decides what the quota is for a given area. Is that correct? I imagine in other instances as well the ministry has a policy as to how much you can fish or how much you can trap and so on. The ministry really has the ultimate responsibility for setting the policy as to how much can be fished or trapped.

In a situation where you are hearing appeals, it seems to me you are interpreting ministry policy. Is that correct?

Mr. Edwards: I would say so, yes.

Mr. Eichmanis: If, as you suggested, you were made totally independent and were able to make the final decision, then that link with the ministry that has ultimate responsibility for devising that policy would be broken. In other words, you would make policy rather than the ministry.

Mr. Edwards: I have to agree with that, yes.

Mr. Eichmanis: Thank you.

Mr. Edwards: I would like to make one statement. I asked one former Minister of Natural Resources, the member for Muskoka (Mr. F. S. Miller), if he thought the minister should have the final say. I have questioned this many times. His answer was, "If the public do not like what I am doing, they can put me out of office." I do not know if that is a good answer or not.

Mr. Breaugh: It is a good idea.

Mr. Edighoffer: From the time the conservation officer informs the individual his licence will be suspended, I understand he has 15 days to appeal. What length of time does it take to go through the process and get the final decision from the minister?

For instance, if he appeals to you, how long does it generally take to have the hearing and, after you make the decision, how long does it take the minister to make the next decision? I guess you could call many of these people individual entrepreneurs. How long are they out of business?

11:30 a.m.

Mr. Hawke: Appeals originate from refusals, and the original appeal goes to the chairman and it is spelled out in the notice of refusal. He acknowledges to the appellant receipt of the application for a hearing and refers him to me as secretary of the board. I am responsible for setting up and co-ordinating the hearing, which I do.

I have one eye on costs and I try to give the ministry as much notice as possible. I have found they should be given a minimum of two weeks to prepare their information. It comes out in booklet form. They present it to the appellant and to the board members, witnesses and so on.

We sometimes hesitate to go all the way up to Kenora, or Thunder Bay, or those remote areas for only one hearing when we feel in a week or so we will have another hearing. That cuts down on expenses. We look at that all the time, but we do not let it go too far.

Usually, I call the appellant and ask him if he has any objections if we make it a certain date, that we are looking forward to another hearing and we would like to have two hearings at the same time while we are up there. Usually, he will concur with that. But if he is in a hurry, such as in the case of a trapper where he wants to get trapping, we will step it up and we will go for one hearing. It is expensive.

After making recommendations to the minister, we have found that sometimes there is a long lapse before the minister's office gets back to the appellant. I have had phone calls after three, four, five or six months wondering what the decision was. They had never heard anything. In one case, it was a full year.

Mr. Edwards: That is not the norm though.

Mr. Hawke: That is not the norm.

Mr. Edwards: It is the odd case.

Mr. Hawke: He asked a specific question and I am trying to answer.

Mr. Edighoffer: What would the average be as to when you hear from the minister?

Mr. Edwards: When he sends his decision to the appellant and sends a copy of that to me, on average I would say from the time the person appeals it is probably two months before the hearing. Would it be six weeks to two months?

Mr. Hawke: After the hearing?

Mr. Edwards: After we get the appeal.

Mr. Hawke: Yes.

Mr. Edwards: Then I report to the ministry almost

immediately, not more than a week after the hearing. I hear back from him within two weeks from that time.

There has been the odd case where they have been dragging their feet for some reason. I do not know whether he cannot make a decision on what he should do or what, but there has been the odd case where it has been a long time before he finally makes a decision on what he should do with a particular person. He probably has to do a lot of research with his staff and it is a difficult decision on whether he should grant it or not. He delays doing it until he can gather a lot of information.

Mr. Hawke: Sometimes they get bogged down because the minister changes. It takes a while to catch up.

Mr. Van Horne: I am filling in for one of my colleagues so I have not read all the background material, but I was curious about the process of keeping wildlife in captivity. Are you involved with any of that licensing process?

Mr. Edwards: We never have been.

Mr. Chairman: Are there any other questions?

Mr. Empey: The gentleman who was sitting over there has gone.

Mr. Chairman: Mr. Watson.

Mr. Empey: He said there were two things under our jurisdiction, fishing and trapping. The fishing could be divided in two. One is bait fish. That is a big industry today. That is one of the things we get; we get hearings from it too.

Mr. Chairman: Thank you for clarifying that. If there are no other questions, I thank you gentlemen for coming this morning, giving us your information and answering questions by the committee.

This afternoon we are carrying on with the Crop Insurance Commission of Ontario. If the committee wishes, we could commence a review this morning and start making some recommendations. If you would prefer we will adjourn now.

I see the nods, so we will adjourn until two o'clock and , reconvene with the Crop Insurance Commission of Ontario.

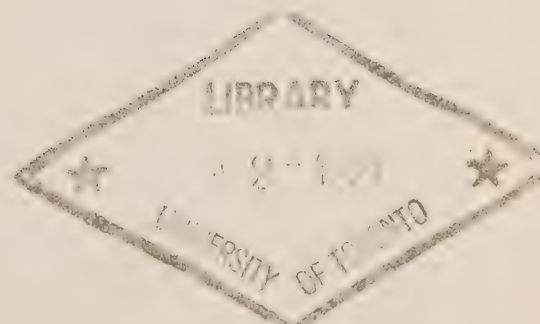
The committee recessed at 11:35 a.m.

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
CROP INSURANCE COMMISSION OF ONTARIO

MONDAY, FEBRUARY 20, 1984

Afternoon sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Hennessy, M. (Fort William PC)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Lupusella, A. (Dovercourt NDP)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Sheppard, H. N. (Northumberland PC)

Substitution:

Van Horne, R. G. (London North L) for Mr. Epp

Clerk pro tem: White, G.

Staff:

Eichmanis, J., Researcher, Legislative Library

Witnesses:

From the Crop Insurance Commission of Ontario:
Delanghe, H., Member
Hawley, R., Member
Huff, M., Chairman, and General Manager
Regan, W. K., Assistant General Manager

ERRATUM:

The witnesses for Issue P-6 should have been:

From the Game and Fish Hearing Board:
Edwards, T., Chairman
Empey, D., Member
Hawke, N., Secretary

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Monday, February 20, 1984

The committee resumed at 2:06 p.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
CROP INSURANCE COMMISSION OF ONTARIO

Mr. Chairman: If no member takes off, we have a quorum present. Gentlemen, having more than a quorum present at only seven minutes after is quite unusual.

We have the Crop Insurance Commission of Ontario with us this afternoon. Mr. Huff is the chairman and general manager. Perhaps you could identify the various people with you for Hansard and committee members.

Mr. Huff: This afternoon from the commission I have Hector Delanghe on my far right, Bob Hawley, Murray McRae in the maroon suit and John Eppel.

With me from the staff is Bill Regan, our assistant general manager, sitting on my left. In the back row are Margaret Taggart, our controller; Jack Mulder, manager of operations; Doug Jackson, manager of field services; and Greg Brown, commodity officer for specialty crops in the hay plan. Secretary of the commission is Mr. Peter Wiley, who is sitting in the corner with his glasses on looking very studious.

Mr. Chairman: Fine, thank you. Do you have an opening statement?

Mr. Huff: We appreciate the opportunity to meet with you today to explaining a little of the operation of the Crop Insurance Commission of Ontario. I have passed around a handout. If you require more copies, there are some in a box in the back row.

The objective of the crop insurance program is to minimize financial disruptions inflicted on crop producers by uncontrollable crop losses. This provides a stabilizing effect on farm income and the rural economy in general. One of the objectives is to minimize the need for the Ontario government to provide ad hoc assistance in times of major crop losses. The other objective of the program is to administer individual crop insurance plans that will be financially self-sustaining over the long term, exclusive of administrative costs.

The commission operates under the Crop Insurance Act of Ontario which was passed in 1966. We have included a copy of the act for your information. In general terms, the act provides for insurance of agricultural crops. It establishes a commission to administer the program, provides for a staff appointed under the

Public Service Act, requires regulations for general rules and crop plans, provides for an arbitration board; provides for funding, advances and the establishment of a crop insurance fund, specifies what can be paid from the fund--and that is losses under plans or the repayment of advances provided by the province--specifies an audit by the Provincial Auditor and the tabling of an annual report--and the annual report of the commission is included in this package--authorizes an agreement with the government of Canada, and limits plans to those where an agreement exists with the government of Canada.

There are seven members of the commission appointed by order in council. Mr. Beamer is not with us today, but he is a fruit farmer in the Niagara area. Mr. Delanghe, who is with us, grows a number of fruits and vegetables in Blenheim, Ontario. Mr. Eppel, who is also with us, is a tobacco farmer out of Courtland. Mr. Hawley, who is on my immediate right, is a dairy farmer from eastern Ontario. Mr. McRae, who is also with us, is a livestock and field crop farmer from the Denfield area. Mr. Wismer, from Amherstburg, is a vegetable and field crop farmer.

The commission meets about 10 times a year to review existing plans and negotiates changes with commodity groups. We also introduce new plans, and the commission listen to appeals on refusals to grant insurance.

The Crop Insurance Arbitration Board is chaired by Douglas Gunn, who is a lawyer and a farmer in the St. Thomas area. Its members are Mr. Rickard, Mr. Bolton and Mr. Roy. All three of the latter are farmers. The board has exclusive jurisdiction over disputes arising from claims between the commission and an insured. Its decision is final.

The federal-provincial crop insurance agreement provides for a 50-50 cost sharing of premiums between the federal government and producers. This federal contribution amounted to \$20.7 million in 1983-84. The agreement also requires the province to pay all administrative costs, which are estimated at \$3.4 million in the current fiscal year. It includes all the plan regulations; it requires the province to comply with federal visibility requirements; it allows either minister to exclude a crop; it contains a disaster loan agreement from Canada to Ontario; and, of course, it provides normal audit access to commission books.

Administratively, the commission operates as a branch of the Ministry of Agriculture and Food. It is a category 1 agency, which means that all policies outlined in the Ontario Manual of Administration must be followed. The memorandum of understanding is attached. We have approximately 30 full-time staff and up to 15 casual staff, depending on seasonal conditions. We have 91 commission agents and 72 per diem adjusters.

Our field staff are divided into seven areas. Each area has a manager, and this manager is responsible for supervising agents and adjusters. The manager of area 1 is also the commission's sales manager, and the manager of area 2 is the flue-cured tobacco commodity manager.

Area 1 is in around the Ridgeway area; area 2 is the Delhi area; area 3 is Stratford; area 4 is Orangeville; area 5 is Perth, Ontario, which goes west to the region of Durham; area 6 is Embrun, which covers the eastern part of the province; and area 7 is northern Ontario.

Each one of the sales agents is allocated an exclusive territory. They are responsible for both sales and underwriting. They collect reports and premiums based on final acreages planted; they also collect yields in the fall. Adjusters review and report on claims, and 72 are active in the province at this time.

We basically have three types of insurance plans. We have what we call the individual average farm yield. Insurance is tailored to individual farms and farmers. The amount of coverage available is based on a farmer's average yield. Initially, each contract is underwritten, based on an area average with approximate adjustments for factors such as tile drainage and management. After five years a producer's production record establishes his own coverage.

There are several crops under this plan which are listed on page 8 of the handout. I will not go through them and read them out.

The second plan offered is what we call a specialty crop plan. For a number of crops, market conditions are a very important factor in determining harvested yield. Crop insurance can only cover losses from weather perils, not market factors. These plans involve field adjustment and an assessment of loss in the field rather than a production guarantee.

A producer selects the value of insurance he needs, subject to maximums and commission underwriting. In the event of a loss, an adjuster must visit the field and assess the extent of loss. The deductible is applied to avoid frivolous claims, to reflect claim experience and to conform with the act's limitation to 80 per cent of long-term average yields.

Again, we have listed the crops under that plan.

We also have a unique plan called the hay and pasture plan. It is a computer simulation yield. Hay and pasture are very difficult to insure under the conventional methods of a production guarantee because it is almost impossible to record an accurate yield. The difficulties arise because production from hay fields and pasture is harvested in many different ways. There is dry hay as large or small bales, haylage, grass silage, just to name a few. As well, pasture is an important source of feed that cannot be measured because it is rather hard to measure how much a cow eats.

To overcome these problems, a computer model was developed to simulate forage yields for insurance purposes. In addition to the simulated yield, actual yields for the first cut are measured and used with the simulated yield to calculate the first cut yield.

This plan uses a computer to establish long-term normal yields for various areas of the province, using weather data from the last 50 years or more. The computer simulates forage growth, using daily calculations of the growth, and accumulates them over a whole growing season. These calculations are based on daily temperature, hours of sunlight and rainfall. Growth is considered to begin in the spring after there have been 10 days of temperature over five degrees.

Since the computer calculates growth each day, it is important to have daily rainfall records. It also means that a number of small rains may have a different effect than one large rainfall. Once the long-term yield is established, it forms the basis for comparison for the insured farmer in the year he insures. The calculated yield is then arrived at by using computer simulation as well as measuring some actual first-cut yields in the area.

The remaining growth during that year is calculated completely by the computer simulation, using original data of daily temperatures, hours of sunlight and the farmer's own daily reading of rainfall, along with the rainfall records from nearby farmers and check stations.

When the calculated yield has been determined, the computer compares it with the simulated normal yield and expresses it as a percentage. This is called the percentage of normal yield. A claim payment will be made when this percentage is less than 80 per cent of the established, simulated, normal yield.

The claim amount is arrived at by subtracting the percentage in normal yield from 80 and multiplying the difference by two. In other words, if it was estimated the farmer's yield was at 70 per cent, subtract that from 80, get 10 per cent multiplied by two and that would give you a 20 per cent payout.

On page 12 we have set out the growth of the crop insurance program. You can see it started off with three crop plans in 1967, the first year, with the insured acreage at 32,400. It has 47 crop plans at present. The acreage insured is 1.86 million. The liability is \$486 million, and we are adding two crops next year, which will bring the total number of crops insured to 49.

2:20 p.m.

On page 13 there is more detail of individual crops, indicating the number of contracts at risk, the acreage for each crop, the amount of insurance by crop and the total premiums paid. That is both the farmer's share and the federal government's share.

With the increased interest on risk management, a number of farmers are unwilling to accept the cost of crop failure and are becoming more interested in crop insurance. A review of our program over the past 11 years indicates we have had 3,300 customers who have been consistently insured and only 107 of those, or three per cent, have been without a claim.

I understand the committee wishes to ask us a number of questions and we would be prepared to respond to those at your convenience.

Mr. J. M. Johnson: Mr. Huff, in view of the fact the commission has a deficit, you may be considering increasing your insurance rates. I suggest you try to keep it at five per cent or less.

Mr. Breagh: That is what we like to hear, Jack.

Mr. Huff: Some of the rates have not gone up at all in the last two or three years. They are all based on actuarial calculations. Some have gone up quite substantially because the individual plans are in a large deficit situation. Where it is at all possible we attempt to minimize the rates, but in the case of some crops it is not possible to keep it below five per cent.

Mr. J. M. Johnson: I feel since the government is advocating a five per cent principle, this is not the time to--if you carried it for a year or two, another year will not hurt. I think we have to set an example. If you have to ask the Treasurer (Mr. Grossman) for a few dollars, I suggest that is the way to go. I have registered my concern about increasing over five per cent.

The second point is, what does tile drainage do to your program? I have no question it reduces the degree of insurance necessary. Do you have any figures to substantiate the time between the tile drainage and your compensation factor?

Mr. Huff: Let me answer that question this way: In our underwriting, which would be for a first-time insured, there is a higher ceiling for someone with tile drainage than someone without because the yield per acre is much higher on tile drainage than untilled land in most instances.

If a farmer has been with us for a period of time, as he tiles more fields, his yields increase. The more a farmer's yields increase, the higher his coverage is under crop insurance because it is based on individual farm yields.

Mr. J. M. Johnson: I have a last question relating to the concern some farmers have that a lot of crop insurance is directed to part-time farmers. If they have a full-time job, it is hard for them to get the crops off in decent weather if their jobs tie them down. In good weather they cannot get them off, and then on the weekends when they intend to take them off it rains. Is this a factor or do your insurance rates compensate for that?

Mr. Huff: Failure to harvest is not an insured peril. It is obvious that if a farmer has failed to harvest the crop or he has delayed harvest for an undue length of time, his insurance claim can be denied or substantially reduced. We do have instances of this, but it has been our experience that most farmers work very hard at attempting to harvest their crops because they have a lot of money invested in them. It usually pays them to harvest rather than to try to collect crop insurance.

Mr. J. M. Johnson: This has not been a problem?

Mr. Huff: It is not a major problem. There are individual cases that can be a problem, but we have mechanisms to look after it.

Mr. J. M. Johnson: It will not happen year after year. The same farmer will not in that same--

Mr. Huff: No.

Mr. Breaugh: I have a couple of things. First, I want to put on the record that I am a great fan of the Crop Insurance Commission of Ontario. I wish the people who drive automobiles could obtain the same kind of consideration from the government of Ontario as the people who raise crops. It is an amazing exercise by a government that purports to be a free enterprise government.

Could you give me a little bit of an explanation as to why there is a crop insurance commission as opposed to the government's attitude of letting this fly in the private sector as it does in virtually all other cases? What is the special set of circumstances that makes a crop insurance commission a necessity?

Mr. Huff: Mr. Breaugh, it is required under the act. That was passed a little while before I came on the scene. It is also required as an administrative vehicle under the federal Crop Insurance Act. There has to be a commission or some body that looks after the administration of crop insurance acts in each province across Canada.

Mr. Breaugh: But essentially though, there is a crop insurance commission in Ontario because the private sector either does not want to or would run it at astronomical rates if there was any such thing as private crop insurance.

Mr. Huff: There is private crop insurance in the tobacco industry. The governments of Ontario and Canada decided there should be a national, government-subsidized, crop insurance program. The rates are quite heavily subsidized, as I indicated, at 50 per cent of the actuarial rate.

Mr. Breaugh: But essentially, the service you are providing is something that probably either would not happen if it was left solely to the private sector or would happen at such rates as to be prohibitive. Is that a reasonable assumption to make?

Mr. Huff: Yes, it is.

Mr. Breaugh: I wanted to go over some of the nitty-gritty.

In going through the research here, the indication is that the chairman has usually been a civil servant. What is the reasoning behind that? Maybe while you are at it, you could go into a little bit of your relationship with the provincial and federal ministries of agriculture.

Mr. Huff: I cannot answer your first question. I operate as a branch director and general manager of the program. Originally, the government of Ontario must have decided it wished to have one of the staff act as chairman of the commission. There are also a number of day-to-day details the general manager would have to be in contact with the chairman on, so possibly it is for administrative convenience.

What was the second part of your question?

Mr. Breaugh: Maybe you could elaborate a little bit for the committee on the relationships that have developed with the provincial Ministry of Agriculture and Food and the federal Department of Agriculture.

Mr. Huff: Most of our dealings are with the civil servants in the crop insurance division in Ottawa. As far as the commission in Ontario is concerned, both federal and provincial ministries of agriculture signed the agreement as far as crop insurance is concerned. The federal government provides half of the premiums, which are matched by producers.

Mr. Breaugh: In terms of your day-to-day operation, is there much of a relationship with either ministry?

Mr. Huff: Yes.

Mr. Breaugh: For example, how do you develop your models about crop yields and what your rates might be and things of that nature?

Mr. Huff: The federal government has to approve all the premium rates. They attend all our commission meetings. We have fairly frequent discussions on administrative matters. We are probably in contact with our federal counterparts at least two to three times a week.

Mr. Breaugh: Is there a pretty strong working relationship with, not the ministers probably but with their staff, a pooling of information? For example, if you do computer runs, as you did with the hay crop, who develops the models for those? Whose computers do you use? Where do you get your data base?

Mr. Huff: Our computer is the Queen's Park computer. The data base for the hay plan is the federal government's Environment Canada data base. The hay plan itself was originally developed for the commission by the University of Guelph under a research contract. It has been adopted by two other provinces. It is going to undergo some modifications in the next little while which probably will be funded jointly by the governments of Canada and Ontario, although it is a little early to tell yet. We develop our own computer data base on individual yields, individual crops.

2:30 p.m.

Mr. Breaugh: What I am trying to ask here is does the Crop Insurance Commission of Ontario really have the staff and expertise to do that kind of work on its own, or do you rely upon

the two other ministries we are talking about to provide you with information, develop models and hand out research money to universities, to give you some basis for that work?

In the private sector, if Prudential Life or somebody wanted to run a big insurance scheme, part of the great mystery of insurance is they have developed such a sophisticated system that no other combination of human beings in the world can understand what they are doing, how they set rates, who sets the rates, why the premiums are going up and what the basis of all of it really is.

The mystique of the insurance industry very much serves their self-interest. If you were in the private sector you would have computers all over the place and experts setting these things. You would set up an independent panel of folks who were from the industry who would review your rates but not do anything about them.

There would be a whole aura of folks out there working to generate the information flow, the profit margin--all of that stuff. Do you have all those people or do you rely on the ministries? For example, when you want to do something on a hay crop, do you turn to the ministries and ask, "How do we go about this business?"

Mr. Huff: The actuarial formulas have been obtained from the government of Canada and they have been put together by the federal insurance branch. The staff go through these formulas and calculate the change in rates. Then we bring them in front of our commission members.

Mr. Delanghe might like to explain his reaction when he sees a recommendation for a 27 per cent rate increase in a pea crop premium because there have been a fair number of losses.

Mr. Delanghe: If I may I will just fill you in a little more on how we act as a commission. We work fairly closely with a marketing board such as the Ontario Vegetable Growers' Marketing Board, or the Ontario Seed Corn Growers' Marketing Board, or anybody that represents the industry that is involved. This works very well for us because we are talking to the people who are doing it.

These people also have resources because of the fact they have information on crop yields, data for not only five, but the last seven years. We like to look at those figures, but it is not always possible to look at figures that far back, so this is very important for us. As a commission, we like to act as if this is going to be possible at a price.

We like to think if you were a certain grower--we will call you an apple grower--and you are asking for insurance on apples, that you put the best information into it. We like to think you are not going to get any more out than what you put in. We have found these people very co-operative. Who knows more about the problems in the agricultural community than the farmers

themselves? We are farmers as well. This has worked out very well for us.

When you are asking about the insurance companies--the giants and that--this is where we get our resources a lot of the time. The thing is, is it feasible? We do not get involved in the cost of land. That is a figure that sometimes should be in there, but we do not include it. What is the cost of a farmer's acre of soil? You go to 10 different farms you are going to get 10 different figures. There is a cost there.

These are real question marks, I do not mind telling you. We do try to go down the middle of the road and to come up with information. This is what we do as a commission. As Mr. Huff explained earlier, if I grow 20 different crops, sometimes that is too many, sometimes not enough.

A lot of the time we do have firsthand knowledge of exactly what is involved, if somebody says they have replanted this means something, so we can react to the cost of replanting, and this is a very important part of our crop insurance. This saves us a lot of money, giving the farmer the opportunity to replant to another crop. This works out very well.

Mr. Breaugh: At the very least, it strikes me that there is a great deal of openness about this. The players are identified and you go to an information source which at least is not secretive. You are able to determine how the rate structures are set and with some limitations I suppose, try to deal with the problem from a farmer's point of view as well as anybody else's.

Mr. Delanghe: In the last few weeks we have been meeting with the different people. The rates are struck by the commission as a whole, not with the people involved, but they can easily see if we are paying out more money.

As farmers we really appreciate the involvement of Agriculture Canada in this. Matching dollar for dollar of the premium means big money. We also appreciate the province picking up the administration costs. With a lot of the crops we grow in Ontario we do not know what the risks are, for some reason or other, until we get crop insurance on them.

I may be contradicting some of the things I said earlier. However, we have to make an attempt to cover these crops as well, if there is enough interest shown. The farmers borrow a lot of money but there is no better collateral than this. Let us face it; it is just good business.

Mr. Breaugh: Would you take a stab at trying to describe the relationships between the federal government, the provincial government and the commission itself? They are a bit confusing. Are there clearly-defined rules, outside of putting money into the kitty? Would one of you take a stab at that?

Mr. Delanghe: Do you want me to try first?

Mr. Huff: Sure. Go ahead.

Mr. Delanghe: We, as a commission in Ontario, work within our boundaries of course. I may go a little further--just to help clear up some of the questions you may have in your mind.

We operate with all the resources of the Ontario Ministry of Agriculture and Food in Ontario. Ottawa comes in and they look at what we are doing. If they can help us in any way they do. This is not a wait-and-see attitude. If they can see where there is some risk or something involved here, we are very open about this and it works out very well. We have a lot of their dollars involved and if we can keep this going on an even keel it is better for everybody, particularly the farmer.

I look at the consumer as being my most important person because she has to buy what I produce. We have to look at the people who buy our plans and ask if we are giving them the protection they need. The liaison comes that way because we work as a provincial committee.

About every 18 months we, as the Crop Insurance Commission of Ontario, will get together with the Crop Insurance Commission of Canada, although we are not members. We get together for what I would call a convention, although it is not the kind of convention I am used to. This is a working convention.

For instance, we in Ontario are great believers in individual farm yields. I was asked recently to speak in Alberta where everything is on area averages. They wanted to know why Ontario is working on individual farm yields when Alberta works on area averages. This is good, because the feedback flows back and forth.

We in Ontario grow a lot more crops than the other provinces and some of these crops are unique to Ontario, although British Columbia grows some of the same fruit crops we do. If something has not worked for them and we are thinking about it we do not hesitate to ask questions. We ask what went wrong, if they had to do it again how they would do it, or how they are doing it now. The information flows very freely.

I think this is where we, as a commission, get a good background on exactly what risks are involved and we base our premiums on this type of information. I do not know of too many other industries--I like to refer to agriculture as an industry--that have this kind of relationship. There are no holds barred at these meetings; everything is right out on the table.

Mr. Breaugh: Maybe somebody else will take a run at that, too.

Mr. Huff: Mr. Breaugh, the federal act prescribes the general things that have to be covered in each plan. For example, the maximum coverage is 80 per cent of the long-term yield. The plan has to be a designated one, which really means adding it to a federal list or regulation.

Our counterparts in Ottawa review every plan we are about to offer to ensure it does not go over 80 per cent. Our rates must be

in line with the risks associated with any particular crop. They look at variations. They look at average yields and this type of thing.

2:40 p.m.

The commission is the body designated under the act to administer these plans in Ontario. The administration is designated as a branch in the Ministry of Agriculture and Food. As general manager of the branch, I report through the line administration. As chairman, I would report directly to the minister; in reality, I generally report to the branch administration.

If we get into a difficult situation where there is a crop disease we are uncertain about, we rely on the ministry specialists as would anyone else who has a problem in that area. If we have questions on research, we will talk to those people and try to get an opinion or a level of expertise.

Mr. Breaugh: As a practice, does the federal government really retain a kind of veto over this process in a pragmatic way?

Mr. Huff: They retain a veto over any plan we are trying to offer.

Mr. Breaugh: But as a practice, do they do it?

Mr. Huff: Yes, they do.

Mr. Breaugh: It is a fairly common occurrence then.

Mr. Huff: I would not say it is common because we usually find out before what their objections are. I believe we have had one that has been vetoed. Each of the western provinces and, I believe, Quebec has also had plans vetoed by federal authorities.

Mr. Breaugh: Is there much of a push on the part of the federal people to try to get conformity in the crop insurance schemes across the country?

Mr. Huff: To a certain degree; there is certainly conformity on the visibility requirement. There is some conformity on the types of plans in broad general terms, but they allow each province to have individual plans. For example, they have allowed individual farm yields in Ontario. Area yields are popular out west, as Mr. Delanghe indicated earlier.

Mr. Breaugh: Are we perhaps at the stage where we are trying to evolve to a state where we can see what is the best way to go about providing this insurance, and right now no one has the answer to it so there is some variety across the country?

Mr. Huff: As a generalization, that is true. If I have a problem or the commission has a problem it does not take us long to talk to people in other provinces or federally to try see if there is a better way of doing it.

Mr. Breaugh: Is there a central collation of all this information for Canada?

Mr. Huff: Yes. The agreements in Ottawa basically cover all the plans. They would have a catalogue of all the information.

Mr. Breaugh: Aside from the agreements, is there a day-to-day monitoring of each of the crop commissions, how they are functioning, how their various plans are being offered and how they are working out? In other words, is there some computer whizzing away in Ottawa which is attempting to understand what is going on with the crop commission in Ontario as compared to in western Canada? It strikes me there must be.

Mr. Huff: I am not sure whether we are talking about semantics. I do not think there is any computer whirring away in Ottawa monitoring the activities of our commission. We provide them with a number of operating reports on a fairly frequent basis. I do not know whether they have a catalogue of all our individual experiences and reactions to various problems.

There is another thing you should keep in mind. We have 49 crops in Ontario insured at this time. Some of the western provinces might only have half a dozen insured. How you react to a problem in wheat in Ontario versus Alberta might be much different. I am not certain how realistic their experiences would be compared to what we have in Ontario.

Mr. Breaugh: Let me ask a larger question. It is a confusing operation, especially for someone like me who is not a farmer, does not understand the commodities market well and who looks at the different rates that are set, how you go about setting up a plan for a particular crop and why some crops are in and some are not. It strikes me that at some point some uniformity will enter the scheme. Let me hear the argument which says there should not be some uniformity.

Mr. Delanghe: Uniformity in what way?

Mr. Breaugh: I guess ultimately you would perhaps get to something close to what the Americans do now, which makes absolutely no sense to me at all, but at least one kind of concept applies across the country. There is one crop insurance scheme although there may be different rates for different crops; it is set up on a similar model, the same kind of a model applies across the country.

It seems to me you could probably mount a reasonable argument for saying that, on an insurance basis, giving you that broader group to deal with and broadening your guidelines somewhat--I am sure the private sector would not go about it in quite this manner. They would seek a larger group of people to serve with a larger, much broader insurance scheme, jack the rates up to the highest point and really use the old principle that insurance is meant to be paid in the form of premiums, not in the payout.

Mr. Delanghe: I cannot see where we could be uniform in

our rates or our premiums in Ontario at the present time. It is a lot riskier to grow some crops than others.

We have on page 9 a section on crops insured under specialty crop plans. Twelve crops are all insured on the same basis. Of course, as it says, it is because we do not insure the market for these crops or the labour to harvest these crops. After all, those are not insurable perils; they are not excessive rainfall or hail.

On these other crops, you are talking about uniformity. I am certainly not afraid to mention that we did not realize how risky it was to grow flue-cured tobacco in Ontario. That industry had two disasters in a very short period of time.

Mr. Breaugh: One was Larry Grossman. What was the other one?

Interjection.

Mr. Delanghe: We will light up again. This is where I think you are going to see quite a bit of variance.

I wish it was that easy, that we could say, "This will work in all crops." We cannot say that.

As I said earlier, some of the crops we grow in Ontario are risky because we are a marginal area for growing them in. People have proven that they can make their living by doing this.

Crop insurance just more or less covers the costs of what are involved. Certainly, it is in no way a retirement plan. It is not rich enough to do anything like that. It keeps in those dollars, so that at least when you have had a crop failure you have some money to pay your bank notes off. This is why I have to say I do not think it is going to be uniform.

Mr. Breaugh: I would look at the other side of the coin for just a bit, from an insurance consumer's point of view. Probably what you are attempting to do provides the best possible rates. You identify the highest risk areas and you write it up. Even though it might not be a large amount of money that is involved, you write it up according to that basis.

If you were in the private sector, I dare say what you would do is say: "These crops are too risky for any kind of insurance; goodbye. We will take this central group here where the risk is fairly high and that sets our premium structure. Really, we want to sell insurance to everybody over here who is really a low risk." If you sell them at the high rate by breaking down and trying to estimate the amount of risk involved in particular kinds of crops, it seems to me you provide the fairest kind of premium that is attached to it.

That is perhaps a little oversimplified.

Mr. Delanghe: If I could use as an example an acre of corn. An acre of corn grown in Essex county or Kent county would yield approximately, let us say, 100 to 110 bushels. It is more

than that. That is a very conservative estimate. That would be at about \$12 an acre.

In eastern Ontario, where the yield may be 75 to 80 bushels, there is more risk. Let us face it, the heat units are not there. That rate is still \$12 an acre. Because we insure 80 per cent of the production, the farmer who is getting the higher coverage but not as much risk is getting more dollar coverage for the \$12 per acre than the gentleman in eastern Ontario. This works very well. It seems to flow very well. That only works because it is an individual farm yield.

2:50 p.m.

Mr. Breagh: Let me just ask you a couple of quick ones on the premium rate comparisons you put in here.

You put white beans up 10 per cent, tomatoes up 10 per cent and green peas up 37.5 per cent. What do you do in there to try to soften that when you find one where it gets to a point where there is a 37.5 per cent increase? Can you take me through the considerations the commission would go through to arrive at that kind of rate?

How much of what you do is to attempt to soften the blow? Or is it really just a mathematical formula whereby if you have the high-risk crop, you pay the high premium and it does not matter what it is?

Mr. Huff: Mr. Breagh, I am going to ask Mr. Regan to comment in a little bit of detail on that one. But generally speaking our rates are calculated over a 20-year period, so if you have a very heavy loss in one year, it does not mean your rates will double or triple; it is averaged over a fairly long period of time.

We have some crops--and you have identified two of them--that have been very risky to grow, and there really are not many ways around adjusting the rates fairly significantly to take that into account. Our commission members do react to some of the mathematical explanations we provide.

I am going to ask Mr. Regan, who does a lot of work in the fruit and vegetable area, that is his area of expertise and responsibility, to take you through what he does in a rate calculation.

Mr. Regan: On the example of peas: last year was one of the worst years on record for growing peas; we had a very cold and wet April and May; they were delayed about a month in getting them planted, and then it turned hot in the latter part of June and into July. We paid out \$1.9 million on peas, and our premium income is about \$491,000.

The commission has always told the farm groups, the commodity groups that come in, that each crop has to carry itself. You are certainly not going to take money from the soybean growers to pay for something like sweet cherries, which is an extremely

risky crop to grow. The other thing they told them is that the commission will not try to keep a crop viable if the climate shows it is difficult to grow that crop any more. So in that way each crop has to carry itself.

With the extreme loss in peas you either raise the premium rate or you cut down the coverage you give them. We have tried to do both on peas this year, and the growers all realized excessive losses on peas.

This is a very experimental program; crop insurance throughout the world is a really experimental program so far, and maybe our initial rates were not enough to cover the risk of growing peas and insuring them.

Mr. Mancini: What are you charging now per acre for insurance on peas?

Mr. Regan: The total rate that has been approved by the commission, but subject to the negotiations, will be \$44 an acre, which is \$22 to the grower, while last year it was \$32.

Mr. Breaugh: I have a couple other quick questions. The Provincial Auditor has from time to time pointed out that things may not be quite what they should be. Can you give us a quick response to his comments about reinsurance and the amount of money that is owing in the plan and so on?

Mr. Huff: The present commission deficit was slightly over \$50 million at the beginning of the current fiscal year. We expect to reduce that because we have had a reasonably good experience this year.

As far as reinsurance is concerned, the ministry is undertaking a study at present to look at the various financing options. The Provincial Auditor suggested that we reinsure on an individual crop basis with the federal government. Informally they advise us this is not possible.

If you look at our premium income, if you accept the fact that reinsurance premiums are about 30 per cent of total premium income and if you look at the size of the deficit and the financing charges, you will quickly conclude that it is impossible to have a reinsurance agreement with the deficit the commission has at present. I am sure that once the study being done by the ministry is completed we will pursue reinsurance fairly aggressively, but some refinancing options will have to be looked at before it will work.

Mr. Breaugh: You have already heard Jack Johnson say that Larry Grossman will not mind if you run up the tab just a bit more, but how do you expect to repay the advances from the Treasurer? Is that about it?

Mr. Huff: At the present time we are praying for good weather.

Mr. Breaugh: Somehow, prayer always always enters this picture.

Mr. Huff: If I could answer seriously, 1983 was a fairly difficult year in Ontario as far as growing crops were concerned. At present, we have premium income of around \$41 million and our losses for the year would appear to be in the neighbourhood of \$30 million. This indicates we are going to be able to reduce our deficit by approximately \$6 million or \$7 million by the time we take out interest and so on. We do not have the precise figures because we are still paying claims at this time and it is rather ridiculous to play around with estimates.

Based on this year's experience, we would likely retire our debts some time in the early 1990s. That is not bad, considering we have had two very bad experiences in tobacco of a one in 20 nature. Interestingly enough, if the present rates we charge had been in existence since day one, the crop insurance would not be in a deficit at this time. This indicates to most of us we are probably getting very close to where the rates should be.

Mr. Breaugh: You feel you are levelling off and if you have a fairly substantial chunk of time to let this thing normalize, you should resolve your own problems, really.

Mr. Huff: That is the objective of the program, to have rates that are in balance over a long period of time and to level off. Every now and again we get into a green-pea situation where we have to increase the rates substantially to help out this levelling-off process.

Mr. Breaugh: Do you get much of an impression that you are under the gun to "eliminate a deficit," to quote a very popular phrase these days? Is there some understanding that with a little bit of time the current deficit will be rectified?

Mr. Huff: When you are carrying a deficit of \$50 million you get a lot of attention.

Mr. Breaugh: Or are buying one third of a domed stadium, so I would not be too worried about it.

Mr. Delanghe: That is a good comparison.

Mr. Chairman: I think our researcher, Mr. Eichmanis, would like to follow up on one or two of Mr. Breaugh's questions.

Mr. Eichmanis: Could you explain to the committee how a crop becomes insured, what is the process and what is the philosophy behind it?

Mr. Huff: One of the commission's objectives is to insure all of the major crops in Ontario and we have most of them insured at this time. There are a number of what you would classify as minor crops that are insured as well.

The other day, I was doing some calculations and 13 of our crops amount to about 95 per cent of our total liability. If I am

subtracting correctly, the other 34 account for about five per cent. We have a number of small crops. This is fairly indicative of Ontario's agriculture.

We can add crops in several ways. One way is for a commodity organization to request its crop be added. This has happened this year in the case of asparagus. In the case of canola, we have had a lot of interest expressed by some farmers. I do not know whether they have an association yet, but we did some research work and added that one on our own.

Mr. Eichmanis: Does this have to be approved by the federal government before it can become an insurable crop?

Mr. Huff: Yes, it does. The crop must be on the designated list and the plan must be approved by the federal government before it can be offered.

Mr. Eichmanis: As you indicated, they can veto that.

Mr. Huff: Yes, they can.

Mr. Eichmanis: Is there a possibility for the process to work in reverse, that you can have a crop deinsured, if you like? If the risks are so great and you are paying out so much money and clearly it is going to be a long-term thing, can you make a decision that you will no longer insure that crop?

Mr. Huff: The answer is yes. Mr. Hawley would like to provide some elaboration on that.

Mr. Hawley: In the past, we have had crops that from experience were shown to be no longer a viable crop for insurance purposes. An example is flax, and we have discontinued to insure that.

Mr. Rotenberg: Would that mean they are not viable for Ontario?

Mr. Hawley: I cannot speak for the province.

3 p.m.

Mr. Regan: What they are attracting is a really adverse selection. Then you have to look at it and see who is buying it in what area and whether it is an adverse selection. If such is the case, you either have to hit their premium rates, and that will encourage a more adverse selection, or you have to drop the plan until the growers can sort themselves out with respect to where they want to grow it.

Mr. Mancini: Mr. Chairman, I want to put on the record right away that I do not in any way compare crop insurance to any type of insurance in the private sector, be it be for cars, for homes or for anything else. I think the good farmers of Ontario need crop insurance.

You have seen how government insurance in the other fields

worked in other provinces, and I am not so sure we want to bring that mess to Ontario just yet.

I want to endorse Mr. Johnson's plea to keep the rates of increase in the crop insurance to a maximum of five per cent, as the control program of the Ontario government has suggested. I am not sure if you are going to do that on all the crops or not, or how it is all going to average out, but I think it is very important to keep the agencies of the government in tune with what the central part of the government is doing, especially in the Legislature.

I hope that, even though the agency is running the deficit it is, the suggestion being made today will not be taken in jest. The Treasurer has suggested this limit and I think it should be taken seriously by all.

I want to move to some of the specifics of the operation of the board. I wonder if I could please have the average length of time it would take for a farmer to be paid after it was decided that payment was due him the way the insurance policy reads: after the weather had damaged his crop and it had been agreed by the adjuster that the crop had been damaged and yes, he should receive payment.

How long does this process take for the farmer? We know that most farmers have to borrow money every spring or every winter for the next growing season, so to me this is very important.

Mr. Huff: I cannot give you a specific figure, but I believe it would average about 45 days from the completion of harvest.

Mr. Mancini: What about a situation such as, for example this spring, if the floods and bad weather continue and all the winter wheat is flooded out? You would not wait until you thought the winter wheat should be harvested and then add 45 days.

Mr. Huff: No, you are talking about a reseeding benefit for winter wheat, which is different from somebody's having a hailstorm or a portion of his crop destroyed or flooded out during the normal growing season. In the case of winter wheat the reseeding benefit would come in much sooner than that. It would occur approximately 45 days from the time the crop was authorized to be destroyed.

If there is a problem, we do not always hit 45 days; in fact, we attempt to do it more quickly than that, but I am giving you an average. If there is a problem in the farmer's yield--if it appears to be too high or too low or if he has not complied with the regulations--it can be longer than that, and in fact in some cases it is.

Mr. Mancini: Just so we have some kind of indication as to the kind of money we are talking about, say a farmer who had 100 acres of wheat or 100 acres of soybeans--I guess beans would be a better example--and he was wiped out due to weather, what

type of payment are we talking about giving to this individual farmer on a case scenario like that? Do you have any idea?

Mr. Huff: Yes. I was just going to let you take a look at the price options we have. For 1984, take a look at this little brown sheet here. Let us assume he selected the top price option of \$7 and that his coverage was in the neighbourhood of 25 bushels. There would be \$7 times 25 bushels, which would be \$175 if I am not mistaken.

Mr. Mancini: Per acre?

Mr. Huff: Per acre.

Mr. Mancini: That is what he would receive from the commission if it was a total wipeout?

Mr. Huff: Yes.

Mr. Regan: For 100 acres it would be \$17,500.

Mr. Delanghe: May I add to that? Let us say he had 100 acres and it was all destroyed. That would be straightforward. If he had, say, 75 acres destroyed and 25 acres left to harvest, then we have to wait to see what the 25 acres yield in order to settle that claim.

This is where I get a fair amount of calls saying, "Where is the money?" That is the kind of thing I have no answer for. When it is straightforward, the faster we can get it the better. As you say, there is interest owing, in most cases, on a lot of that money.

Mr. Mancini: What would happen in that scenario if 75 acres was destroyed and the farmer was able to harvest his 25 acres? I am automatically assuming that the 25 acres would not give its normal harvest. Would you in any way factor in that? No? That would not be factored at all? It would just be whatever he could save. I see.

Mr. Regan: If I could answer that, he would be guaranteed a certain production. Let us say he was guaranteed 30 bushels an acre times 100 acres. That would be 3,000 bushels. You would have to wait until you found out the number of bushels that he got off the 25 acres.

He is guaranteed 3,000. Let us say he got 500 off the 25 acres. He would have a claim for the difference of 2,500 bushels times the price option.

Mr. Mancini: I see.

Mr. Regan: That is how it works. It works that way in most crops.

I would like to add that on the processing crops it is a little bit different. On an early claim we have to wait until we get the premium submitted from the processor because in the processing plants--

Mr. Mancini: You are talking about snap beans and stuff like that?

Mr. Regan: That is right. A farmer does not have to pay his premium up front in the spring. It is delayed until the fall when, of course, he is getting his crops in and he is getting revenue. If a man gets hailed out early, we have to wait until that is all cleared, the premium is paid, and we get the official release from the processor. That takes a bit of time.

Mr. Mancini: Okay. I guess I should know this, but are greenhouse tomatoes and cucumbers--

Mr. Huff: No.

Mr. Mancini: Why not?

Mr. Huff: It is natural weather hazards. When you put them under glass, they are primarily man-made hazards.

Mr. Mancini: You do not mind if I disagree with you.

Mr. Huff: Not at all. Would it make a difference?

Mr. Mancini: I do not know. Would it make a difference?

Mr. Breaugh: No.

Mr. Mancini: Why would it not make a difference if there is heavy snowfall or several days of subzero weather and the glass caves in? These are not normal things. How are they protecting themselves now?

Mr. Delanghe: May I answer that?

Mr. Huff: Yes.

Mr. Delanghe: This happened on my own farm. The roof in 1978 blew off my tobacco barn. As a matter of fact, my roof blew off from one barn, hit my other barn and knocked it over. When there are two different insurance companies on buildings, that gets to be very technical.

Anyway, it is really not a crop insurance peril that the roof blew off. We do not get near building insurance anywhere. That is why I carry private carrier insurance to cover me for damages in that barn.

Mr. Mancini: I do remember we had quite a bad winter four or five years ago. It hurt the greenhouse growers quite badly. I also remember we made some representation to the then Minister of Agriculture and Food. I was wondering, how are they protecting themselves these days?

Mr. Delanghe: That industry?

Mr. Mancini: Yes.

3:10 p.m.

Mr. Delanghe: I do not like to use names, but Sun Parlour insurance and things like that have been covering them.

Mr. Mancini: I see.

Mr. Delanghe: It is not as though it is not available.

Mr. Mancini: For some reason I remember--this may not be correct--at the time we had that particular disaster, private insurance was not available. Maybe the minister took that into consideration before he gave money to the industry. I think that is one of the things we used, as a matter of fact, as this thing becomes clearer to me.

Mr. Delanghe: What is vague in my mind is that I have plastic greenhouses and they are not insurable. I used to have glass and they were. That is the grey area. I do not know the answer, but there is a difference.

Mr. Mancini: I am quite interested in the arrangement or the role the federal government plays with the crop insurance commission. They foot half the bill. I believe Mr. Huff mentioned something about visibility a few minutes ago. In my view, its visibility is zero.

Mr. Watson: That is the federal government you are talking about?

Mr. Mancini: Yes. This is typical of--

Interjection: Do want to rephrase that?

Mr. Mancini: No, I do not. I do not want to rephrase it. The federal government entraps itself in these situations a good deal of the time, where they give extensive funding to different--I know, Mr. Huff, you are going to give me some brochures. I am talking about--

Mr. Huff: --to verbalize, too.

Mr. Mancini: --Joe Citizen on the street who picks up the Windsor Star and reads that the following has happened to the wheat industry the soybean industry or what have you, and the Ontario crop insurance commission is going to pay 80 per cent of the cost. I do not think I can ever recall any visibility whatsoever from the federal government and I want it to mean exactly the way I said it one moment ago. Its visibility is zero.

The farmers who are directly involved may have some indication of the federal government's visibility, but in my view, that is not enough. They do fork over half the money, and I cannot imagine why Eugene Whelan would continue to pay out so much money and get so little visibility for it. Of course, this does not

affect you personally, but this is the political end of it. When governments of all stripes have put in programs that they perceive to be helpful to the population, they want visibility. I do not think the commission is going to say yes or no on that, but I think that is an actual, true fact.

Mr. Delanghe: All I can say, Mr. Mancini, is that about 10 days ago in Niagara-on-the-Lake for the first time I sat in on an agents' training seminar. These are the people who knock on the doors up and down the gravel roads selling crop insurance. It was coming across that it was the Canada-Ontario crop insurance.

As you say, I will not argue with the point; it was very well taken. But even at the training schools, it was coming across that it was Canada-Ontario. As well, with any commodity group that meets with the commission, it is explained exactly to the tune of how many federal dollars are involved in a particular crop.

For instance, last week we met with the Seed Corn Growers' Marketing Board and it came out how many dollars Canada contributes to that plan every year. I still will not say that what you are saying is wrong, because you are right.

Mr. Mancini: Thank you.

Mr. Delanghe: But the thing is, at this level, it is very big money.

Mr. Mancini: I am glad to hear that some steps are being taken to try to change this around.

Mr. Huff: Mr. Mancini, perhaps I could just go on for a couple of minutes. As part of the visibility requirement, we have to duplicate this little "Canada-Ontario" on the top of every brochure. You can see with the annual report of the commission we have to say Canada-Ontario Crop Insurance. This is required and prescribed in our agreement with Agriculture Canada. On every application for insurance, we have to state the gross premium and to put down that the government of Canada pays 50 per cent of the actual amount of the premium. We have to do this as part of our agreement.

We welcome the opportunity to do it because for years the federal government expressed great concern over the lack of publicity it was getting for the crop insurance program. It was more concerned about events that were happening in other provinces than Ontario because historically we have always put the ministerial designations on the bottom of our literature. We had asked the federal government for a number of years to provide a set of guidelines so we could conform with its requirements.

Part of what you say may be true. In fact, I do not think it is any secret that the premium assistance provided to Quebec has been withdrawn--or "withheld" is probably the better word--because it will not comply with federal visibility requirements. So the federal government is quite serious about it and we have no

option. We must conform. When one of our people goes on the radio and forgets to mention the word "Canada," I usually get a phone call from my counterpart in Ottawa. So we stress the Canada-Ontario aspect fairly strongly. After all, \$20 million-odd is fairly significant.

Mr. Mancini: A small piece of change.

Mr. Huff: A matter of survival.

Mr. Regan: I could add, Mr. Mancini, I was at the processing convention two weeks ago in London where Mr. Whelan gave an address. He talked about the federal money that was coming into Ontario and he did not mention crop insurance.

Mr. Mancini: I will have to mention that to him.

Mr. Regan: I think one of the reasons for that is crop insurance was set up initially between the federal government and the provinces to take the place of ad hoc payments, because you can get into a real situation on ad hoc payments after a crop loss occurs, a disaster such as Hurricane Hazel north of Toronto back in 1954. We did not know who had the crop and people who never grew the crop at all were claiming.

It was a difficult thing to administer. So the federal government said it would no longer do that, but would set up a crop insurance program in each of the provinces. The provinces could administer it and the federal government would contribute a certain amount of the premium. It does not seem to be a program that is used in a partisan type of advertising, if you want to put it that way.

Mr. Mancini: I am glad there is some acknowledgement that there has been a very low level of visibility given to the federal government. I am glad to see also it is being handled as well as possible. I would not think you would do it otherwise.

I have a list here of the members of the commission, including the chairman. Mr. Huff, are you a civil servant?

Mr. Huff: Yes, I am.

Mr. Mancini: You came up through the ranks of the civil service?

Mr. Huff: Yes, I did.

Mr. Mancini: You are very lucky to get this important and prestigious position.

Mr. Huff: Yes, I am.

Mr. Rotenberg: He has earned it.

Mr. Mancini: I do not doubt it. I assume the others are appointed by order in council?

Mr. Huff: Yes. We all are, sir.

Mr. Mancini: I always thought Gerald Wismer was a Liberal. Has anything happened in the last year or two?

Mr. Huff: I am not aware of that, Mr. Mancini.

Mr. Mancini: You are not aware that he was a Liberal or you are not aware that something might have changed? I know Mr. Wismer quite well. He is an outstanding farmer and well known in the community. I am sure he is doing a good job on the commission, as are all the other members.

I am very interested in the fees collected by the agents and adjusters. Can the agent and the adjuster be the same person?

Mr. Huff: Normally no, but in certain parts of the province, they happen to be. In northern Ontario where distances are quite extreme, they may be one and the same person, but normally they are not.

3:20 p.m.

Mr. Regan: It is almost a conflict of interest for an agent to be an adjuster because an agent is interested in selling. If you are adjusting crops, you have to lay down the law sometimes on weeds and poor management, and that is no good for sales. So we try to keep them as well as possible--

Mr. Mancini: Our researcher says the agents are paid on a commission basis, which I was already aware of, and may earn up to \$30,000 a year gross, which I was not aware of. I just took the number of agents, which was 90 some, and divided it into \$880,000 and came up with a gross \$10,000 payment for the agents, and I did the same thing for the adjusters. I guess our researcher is telling us there is quite a difference between what different agents can make. Have you found that?

Mr. Huff: Oh, yes. It is based on the number of customers he has. Our basic rate for adjusters is \$68 a day, and it is going up five per cent this year to \$71.50. There have been some adjustments in the agency fees basically on the collection of yields; there has been a mild increase there. Our calculation when you subtract their overhead--and we have done a fair number of studies on agency activities--is that both of them work out to about the same amount of money when related to an eight-hour day.

Mr. Mancini: Yes, that is right. It is here. In 1983 it was \$880,000 for fees for the agents. What would an agent gross, say, in Kent county?

Mr. Huff: They tend to be closer to the \$30,000 mark.

Mr. Mancini: And Essex would be the same?

Mr. Huff: Similar.

Mr. Mancini: Then we can assume that these people would be full-time at these individual activities?

Mr. Huff: A lot of them work very close to full-time because they are selling now and will be selling up until the beginning of May or end of April. Then they start to collect what we call final acreage reports and the balance on commissions. They also get involved in collecting yields, and in Essex and Kent counties we do diversity of crops. You get into winter wheat yields, as you well know, in July. Then the other crops start coming on and they will be busy up until about November.

Mr. Mancini: Are the agents and the adjusters also appointed by order in council or are they hired by the commission?

Mr. Huff: They are hired by the commission.

Mr. Mancini: Do you have a general type of person you are looking for? Are you looking for a person who owns a farm or has been on a farm, or are you looking for a person who has perhaps been in the insurance business, car or house insurance?

Mr. Breaugh: A former member of the Legislature.

Mr. Mancini: A former member of the Legislature?

Mr. Breaugh: A job application.

Interjection: Put in your name, Remo.

Mr. Mancini: No, I make more than \$30,000 here. I am not interested.

Mr. Huff: Basically, Mr. Mancini, when we are looking for a field staff person, we send letters to the existing insureds advising them a position is available and inviting applications. The type of individual we are looking for is someone who has a wealth of knowledge of agricultural production activities. Our typical agent tends to have some formal training in agriculture in either a two-year or a four-year degree program. These are the more recent ones we are hiring. They will have farm experience, although not necessarily--this is an agent or adjuster. They may have been involved in agribusiness in some area. We have some sales agents who have general insurance business as well and an understanding of agriculture. It is pretty hard to say, "This is what we require."

Mr. Mancini: I think that gives me a good idea.

Mr. Huff: Our more recent people have some formal training in agriculture; some activity in farming. That is basically it.

Mr. Mancini: I was just going over the schedule of administrative expenses, and in looking at this very quickly, I noticed that under 1982 expenses \$47,000 was spent for automobile expenses and in 1983 it went down to \$23,000. Did something happen in 1982?

Mr. Huff: Yes. We bought a number of cars. Each one of our area managers has a government car. Our area managers travel about 50,000 kilometres a year. They have very large territories, and all of their cars seem to arrive at 150,000 kilometres at the same time. We purchased several automobiles.

Mr. Mancini: How long do you expect a car to last? Three years? Four years? Is there a policy on that?

Mr. Huff: It depends when the thing wears out. Some area managers drive a little more than others. Three to four years. Once they get to 200,000 kilometres, you have a reliability problem in most instances.

Mr. Mancini: In the researcher's report, it was stated several times, I believe, how concerned the auditor is over your deficit. You yourself mentioned that when you have a deficit you get a lot of attention from everybody. I was very glad to hear that you feel, with the rates you are receiving now, you will be able to cover the deficit by the early 1990s.

In that assumption, did you assume there would be no more disasters such as occurred with the tobacco industry or the pea industry? Did you include those assumptions in that calculation?

Mr. Huff: Basically, yes. If we have another disaster the magnitude of the previous two tobacco disasters, we would not achieve a break-even point by 1990.

Mr. Mancini: I also thought I read in the researcher's report that the Treasurer actually assigns an interest rate to moneys. I guess the Treasurer transfers the money to the commission and the commission uses the money. He actually has assigned an interest rate to the money transferred.

Mr. Huff: That is correct.

Mr. Mancini: If I am not mistaken, John, there are other crown corporations and agencies of the government where this is not the case. I do not believe the Urban Transportation Development Corp. was actually assigned interest.

Mr. Eichmanis: I am not aware of all of them, of course, but some of them do have the same procedure where there are advances made and the agency has to make a repayment. Not all of them, but in some cases there are.

Mr. Mancini: I was quite surprised why the Treasurer would do that. I firmly believe there are agencies where there are no interest rates attached to moneys that have been transferred. I was wondering if the commission has ever raised this with the Treasurer, or do you assume it is normal business practice and you feel you should have to pay that 11 per cent interest or whatever?.

Mr. Huff: The governments of Canada and Ontario each made a \$15-million contribution to the commission last year, partly to compensate for rates that were too low and partly to compensate for, I believe, some interest charges. There seems to

be a formula calculation on the interest charges. We do not actually get involved in much bargaining in that area.

Mr. Mancini: So the Treasurer sends the bill and whatever rate he attaches to it the commission accepts and tries to work into its plans?

Mr. Huff: There is some negotiation between our financial people and the ministry and the Treasury. It is tied to the cost of money. I believe it is either a three- or five-year rate. Margaret Taggart tells me it is tied to the five-year rate of the cost of borrowing by the Treasury.

Mr. Mancini: The Ontario Development Corp. and the Board of Industrial Leadership and Development both give out loans and grants--I guess the grants are more from BILD--with no interest and with interest forgivable. I was just wondering why this procedure was somewhat different for the crop insurance commission as your function is absolutely necessary.

I mean, there is nothing with which we could replace the commission's work. We certainly cannot go to private industry. I am not sure if we could get coverage or how much we could pay for the coverage.

Maybe that is another way of the Treasurer getting his money back. Since the federal government is chipping in half, they are actually paying for half of that interest rate. Am I not correct?

3:30 p.m.

Mr. Huff: Yes, but you should also keep in mind that \$15 million goes a fair way to compensating for interest being charged. From a policy standpoint, as far as the Treasurer is concerned, I cannot comment on that area other than to say I understand it is policy to charge agencies such as ourselves normal interest rates.

Mr. Eichmanis: Did the Treasurer of Ontario use the \$15 million you got from the Ontario government and the federal government to defray his advances? You did not actually receive that money, did you? Was it not just a bookkeeping kind of thing?

Mr. Huff: We had already paid the claims and had to borrow the money from somewhere. When the actual money came through, it was paid out to the farmers of Ontario, so whether it was simply a bookkeeping entry is immaterial. It was a reduction of the deficit.

Mr. Edighoffer: You owed \$50 million and they have given you an extra \$30 million, so actually you have been \$80 million in the red. As the provincial Treasurer says, that is a net cash requirement. It is not a deficit.

Mr. Huff: Yes.

Mr. Edighoffer: When you were reading out your presentation, you referred to the objectives of the crop insurance

program. The first one, to help the crop producers minimize their losses, is quite clear to me. I think that is really the purpose. But the next objective seems to somewhat conflict with that. It says here "to eliminate" and you used the words "to minimize." Why would you change the wording in your reading of that?

Mr. Huff: It could have been a Freudian slip. It has been felt by policy makers that crop insurance is a much fairer way of providing assistance to farmers in cases of crop disasters. You have a rationale for making the payments. It is related to their average long-term yield. It is related to factors in the immediate community.

It has been my experience that the ministry has not provided any financial assistance where a crop insurance program was available. Where one has not been available, there has been some assistance provided, I know, at the federal level, in the area of apple trees. That is possibly the reason I changed the wording from "to eliminate" to "to minimize."

Mr. Edighoffer: Can I just go back to Remo's point about federal guidelines? Do they have anything written?

Mr. Huff: Oh, yes. It is part of our agreement. If we do not comply with them, they do not give us \$20 million. It is a very effective method.

Mr. Edighoffer: I just wondered if they had anything in there whereby the agents would go out and wear a maple leaf as well as a trillium. I was just noticing, as I look along the front row here--

Mr. Breaugh: Wear a green--

Mr. Edighoffer: There is nothing in there saying the agents have to wear a maple leaf when they go out selling?

Mr. Huff: We issue them with crop insurance hats. They buy their own coats.

Mr. Watson: Could you outline to the committee the number of crops covered by agents versus those not covered by agents? What percentage of the insurance in force is done by a bookkeeping method rather than by an agent method?

Mr. Huff: I am not sure. Are you asking me which crops are sold by agents and which are sold by processing companies?

Mr. Watson: Yes.

Mr. Huff: And which crops, such as tobacco, are sold by adjusters?

Mr. Watson: Yes.

Mr. Huff: If you give me about two minutes, Mr. Regan will figure it out for you.

Mr. Watson: The point is not all the crops you have listed here are sold by agents.

Mr. Huff: That is correct.

Mr. Watson: Someone was doing a quick calculation here a while ago and that may not be quite accurate in that some of the crops do not actually go through the hands of an agent.

Mr. Regan: All the processing products are handled through the processor. In some way, you can say he represents an agent for the commission, but he is not paid, of course. The fruit crop agent just takes the deposit and then a specialist goes out to underwrite. Flue-cured tobacco is not handled through the agency as well. I am not sure what the percentage would be, but it is with the general crops along with these specialty ones that are sold through the agents where we go by a percentage-of-damage method.

Mr. Watson: I am interested in exploring the controversies that arise between commission people who are civil servants and people who are not. We may as well deal with my little problem about seed corn and sex in the corn field, and all that sort of thing. Under your seed corn policy, you only pay for female corn. I have a certain constituent who lost some male corn last year. You say you are not going to pay for it because it is male corn and the law says you only pay for female corn.

I am interested in what the farmer members of the commission think of that versus what someone who is a bureaucrat thinks of it.

Mr. Rotenberg: What is the difference between male corn and female corn? How do you tell?

Mr. Huff: I am going to make a couple of comments and then I think Mr. Delanghe may want to make a couple of comments.

The commission administration has advised your constituent--at least I believe he is your constituent--that the regulations preclude us covering losses for anything but female corn. However, in instances where male corn is planted first, and this happens to be the case, we believe the intent of the program is to cover those losses.

We are endeavouring to come up with a legal method of paying your constituent for what would appear to be a legitimate loss. We are reluctant to pay claims when they are excluded by the regulations because the Provincial Auditor questions our integrity and intelligence when we do things like that.

Possibly Mr. Delanghe might like to make a few comments on that. I know he made quite a few to the Ontario Seed Corn Growers' Marketing Board which was in to see us the other day.

Mr. Delanghe: I feel that farmer should be entitled to his money. That is a personal comment.

Mr. Watson: I agree.

Mr. Delanghe: You can imagine having 49 crops which you are trying to protect, and I think that is what we do as a commission. Is it up to each industry, when changes take place in that industry, to keep us abreast of the changes? I am certainly not going to sit here and say I have all the answers for the 49 crops. I cannot do that.

This is where, when we meet--and it is an open-door policy--we like to know if there are changes going on in an industry. I will agree with the honourable member over there. I did not get my crops--male or female. I did not have any money and that is the bottom line. I hope we can come up with a way to take care of that problem. At the same time, since it has happened we have to change that act. Horticultural practice is changing.

Mr. Watson: Do you not have power as a commission to make a recommendation, for instance, that it be covered in that specific circumstance? I realize what happened. It is one of those things that was not envisaged. Normally, you harvest the female corn and, therefore, you are not going to cover the male corn when it comes to harvesting.

Mr. Delanghe: That is right.

Mr. Watson: This was a stage one claim. People laugh about it. As Mr. Rotenberg said, how do you tell the difference between the male and female bracts at that point, except that the corn has been designated as such by the seed corn company involved?

Mr. Delanghe: We are going to try every step we can, because that is how I personally feel about that one. More important is that we get it, because seed corn companies are telling us this could be practised more often and we have to be up to date.

3:40 p.m.

Mr. Mancini: How would you satisfy the auditor in such a situation?

Mr. Huff: We are investigating making the regulation retroactive. We changed it for 1984, but we are investigating that approach.

Mr. Watson: Who has the last say as to whether that is or is not paid? Is that the commission?

Mr. Huff: It is the arbitration board. A dispute between the commission and an insured is the exclusive jurisdiction of the arbitration board.

Mr. Watson: If you do not get this matter settled and it goes to an arbitration board and the arbitration board says he should be paid, you would have no choice but to pay it?

Mr. Huff: Actually, if we cannot figure out a way among ourselves to pay it, the commission will refer it to the

arbitration board with the appropriate instructions that we are not going to contest the arbitration.

Mr. Watson: It sound as though through time we will get the matter resolved.

Interjection: You are winning, Andy.

Mr. Van Horne: Mr. Chairman, just as an aside, some of us sit on the standing committee on regulations and other statutory instruments. If there is one thing they have tried to broadcast it is that regulations should not be retroactive. I would submit that you have to find another way, particularly given your connection with the civil service. You cannot fly in the face of that.

I think you simply have to accept it and find that other way. You are doing yourself a service by going the other way. This way, you are just going to have it back up another one, two or three months along the line and the answer is still will be no.

Mr. Mancini: Would the arbitration board have to look at all of the statutes and regulations that are in effect before it makes a decision, or can it supersede any of the regulations and/or statutes that have been passed?

Mr. Huff: Basically, that gets us into an awkward situation; they are supposed to interpret the regulations. Sometimes they are a little more liberal in their interpretations than what one might like to see, based on the way they are written down.

Mr. Mancini: But the bottom line is?

Mr. Huff: Once they make a decision the decision is final. They do not always read the regulations as literally as we are required to do.

Mr. Mancini: I see. Okay.

Mr. Van Horne: Mr. Chairman, I have another question, if I could, please?

The Acting Chairman (Mr. Rotenberg): Have you finished, Mr. Watson?

Mr. Watson: No, but if it is on this subject.

Mr. Van Horne: It has to do with agencies.

Reference was made to some general agents as selling crop insurance. My question is, are your agents licensed in the same way as a general agent is? If so, what is the relationship between that group of agents and the Registered Insurance Brokers of Ontario?

Mr. Huff: There is no relationship. Our agents are

appointed to exclusive territories by an agreement with the commission.

Mr. Van Horne: If I want a general insurance licence, I have to study and take the exams provided by the Ministry of Consumer and Commercial Relations. If I do not pass them, I am not entitled to the licence and I cannot sell insurance.

How do you make sure there is some kind of knowledge and quality in that person before he or she takes on the job? Does he or she simply get it by appointment, with no skills or training? What qualification must they have, other than the appointment itself?

Mr. Huff: We have a very extensive training program which they are required to complete prior to selling insurance to farmers. It is an in-house program and it is unique to the type of business we operate.

Mr. Van Horne: My final question goes back to the regulations. We were given copies of the two most recent rates which came through and also the revised Crop Insurance Act (Ontario), December 1982. In spite of the relative newness, is there any flaw in the act or in regulations 231 and 197? Given your experience of this past year or two, is there anything you could suggest that needs improvement or change?

Mr. Huff: I do not believe there are any flaws in the act at this time. We may be adding certain things to the general regulation in an attempt to simplify what we have been doing.

If I may just elaborate, traditionally we have filed a regulation for every price change and every premium change for every plan. Now that we are up to 49 of those this gets to be quite a task, and it is very hard on the system. We are exploring avenues of combining some crops under one regulation; we have done that in specialty crops. We are also exploring opportunities to file one price premium regulation or, at the most, two or three a year to minimize our work load along with the system's.

We may not be entirely successful in this area, but it is our intent to explore this to get things under a little bit better control.

Mr. Van Horne: That makes sense.

Mr. Watson: One of the perennial problems with crop insurance is people with the same crop on different farms. I would be interested in the commission's policy on how far apart those crops have to be to be able to come under a separate contract. We get into situations in which if I have some land that I sharecrop with a farmer and it loses, if I am the city guy who is the sharecropper and he loses on that field, I collect; but because the farmer has 50 acres of soybeans on his home farm that were not hailed out, he will not collect; he cannot insure that field independently. Yet we find people who have farms 100 miles apart, and you seem to accept them. What is your policy on that?

Mr. Huff: I will ask Mr. Hawley to comment. He is a commission member.

Mr. Hawley: Mr. Watson, the policy is all fields under one contract, regardless of distance. You ask how far apart they have to be. We say they have to be in the next province.

The problem comes at harvest time. Regardless of how far apart your farms may be, eventually in the case of a lot of crops it all ends up in one storage. How do you differentiate at that time what comes from one farm and what comes from the other farm? You cannot administer it; that is the big problem.

Mr. Watson: But that is one of the elements of unfairness in crop insurance. Someone who has farms even 50 miles apart may have drought, flooding or frost on one farm and not on the other. It has been one of the detractions. Because the farmer has diversified his land, he is told indirectly, "You are insuring yourself," whereas the farmer would like to say, "I would like to insure field by field."

I can appreciate all the arguments against that, because if you allowed it only the poor fields would be insured. But, even insisting that a farmer insure all of his crop, as I understand you do, why will you not separate these things out on spot coverage or independent coverage?

Mr. Hawley: I think you partly answered it yourself: the fact that he has diversified and one farm will probably do better than another or may do better than another. If you had the choice of insuring them separately, you might decide not to insure one at all, because it is probably all on tile-drained land; for various reasons you felt you did not want to insure it at all. But then when fall rolls around at harvest time it always seems that the poor crop was on the insured farm. To go to individual fields, or even farms, would put the premium cost so high because of the way it would go at settlement time.

3:50 p.m.

Mr. Watson: I am not opposed to insisting that a farmer insure all of his crops. You say he would insure one and not the other. I think that is relatively easily resolved. What I am saying is that if a farmer--and the argument is if you have two sets of farm buildings and one burns down you get paid the insurance on that building--if a farmer has one field--and as you people know, we usually get a streak of hail through someplace; I know Mr. Delanghe can tell you personally about that--he may have a block of cherries or apples wiped out, but if he has another block two miles away, he has to average that crop in. It is one of the inequities of crop insurance that never seemed to be resolved.

Mr. Hawley: No, it is an age-old problem that has been around since we started crop insurance. But in the long run, the person with separate farms, who may have one hit by hail and not the other, for instance the guy who has all his land in one area and is completely wiped out, it is also going to show up in your coverage, individual farm yield, in that you had a partial wipeout

and your neighbour had a complete wipeout. Where he puts a zero in his average farm yield, you put maybe half a crop or something in. That is one benefit to it, if you want to look at it that way.

The other is the problem of identifying claims.

Mr. Watson: What about the people who farm half the farm in their name and the other half in their wife's name?

Mr. Huff: It is one operation, one contract.

Mr. Watson: What about people who have one in one company and one in another company?

Mr. Huff: Same thing.

Mr. Watson: You treat them as one operation?

Mr. Hawley: Right.

Mr. Watson: Even though they came by them separately and maintain that they file the income tax on them separately? How do you judge that they are together?

Mr. Delanghe: If I may, Bob. Say they arrange for their own financing--this is a father-son operation we get involved in, Mr. Watson. If they can prove to us that they have separate identities, that they are not working on one pot as far as money, credit and that goes, if they are running their own operation, I think we have to look at it in a different light then we do when it is two different names on two pieces of land but all working out of the same account. I think that is when we say that is one operation. If they can prove to us that they are both separate and they are both standing on their own feet individually, then I think we have no choice but to insure them separately; keep yields and everything separately.

Under this claim of having a 100-acre farm no claim, or a bumper crop, and having a claim on the 50 acres rented, we go right back to the original federal, provincial agreement. We are insuring 80 per cent of that farm's yield and we pay after it goes lower than that, to where--if you take this example that you brought up--a farmer could be in a claim position, drawing money from crop insurance and having the best crop he has ever grown on his original farm which would mean no claim or no insurance, whichever he decided to do, and that is not part of the original federal-provincial agreement.

Mr. Watson: How did you get around it with winter wheat where you take spot coverage then?

Mr. Delanghe: That is the way we got around it. We replant with spot coverage, right.

Mr. Regan: That is the only spot losses on the replant, Mr. Watson, not on the guaranteed production.

Mr. Watson: Well, you have it on phase--I go back to our

seed corn problem where you can release it and put in another crop.

Mr. Regan: That is a stage one. It is to everybody's advantage to get that crop out of there that was in there and damaged and get to another crop and generally we will pay the costs of the seed that you originally incurred there.

Mr. Delanghe: There are no other dollars really involved other than direct outlay of dollars for seed.

Mr. Watson: Okay. What are you doing to resolve the problem, the complaint particularly of tomato growers who say that you do not give them credit for their maximum yields when the maximum yields are not harvested? In other words, you only take the yield that is delivered to the canning factory.

In a very good year in our area a farmer may get 25 tons to the acre, and he may plough down 10 tons to the acre because there is no home for those tomatoes. A lot of people last year might have harvested only 10 tons. In your five-year average for that fellow that 10 tons is in that average, but the crop insurance argument has always been if we take the high ones, we have to take the low ones. The problem with some of these crops is you do not take the high ones because the crop was not harvested. Do you have an answer for that one yet?

Mr. Delanghe: We do not insure market. If there were a market for those extra tomatoes there would not be a problem, but crop insurance in no way insures a market for the crop that is being insured. That is where we bow out. We insure the perils of getting that crop ready for harvest and during harvest season we cover the crop, but we do not insure market.

Mr. Regan: It would also be difficult to determine the yield that was left in the field. We would have to go out and sample all the fields. In processing crops we are saying that what you get out of your field and on the way to your processors is your yield per acre. That is how the risk is defined and premium rates are set.

If the example was that of a tomato grower who was shut off and still had lots of tomatoes in his field and we determine the reason he did not get them in was not because of an insured peril but for some other reason, we would have to go out and add in the potential of the crop that was left there. We are saying his deficit of production was not caused by an insured peril, and in that case we would have to add in the production that was left in the field. But we cannot use that bit of production every year when they are shut off from the processors as an average yield or enter a good yield, because of the difficulty of obtaining those yields. The whole nature of the thing is, "What did you get out there and into the processing companies?"

Mr. Delanghe: Can I add one thing to that, Bill? If you think about it, Mr. Watson, we could get ourselves in a position, if we allowed something like that, where the farmer could be in a claim position when he grows his average crop. What I call an average crop is the 21.4 tons the company agrees to take. If that

went on for four or five years with one particular grower, he would be growing an average crop and be in a claim position. I do not think we would look too good if that happened.

Mr. Regan: One of our big problems with tomatoes is overplanting. We really have to try to get a handle on that one.

Mr. Watson: It tends to be a problem. I have not got a better solution for the top end, but the bottom end is that when the tomato grower by bad luck or for some reason loses a couple of crops and gets a zero in that average, it pulls down the amount of insurance in force pretty fast.

Mr. Regan: It is a six-year average. I have spoken to farm audiences and asked them, "Do you want us to go to an eight-year average?" A lot of them say, "If it is only a six-year average, I get rid of that bad year a lot quicker, so let us keep it at six." I have had lots of examples where they have been hailed out twice, certainly in your county, Andy, and it really does knock the yield. There is no question about that.

Mr. Watson: The fact the hail hit them a couple of times is no fault of their own. There is nothing they can do about that.

Mr. Regan: Most of our crops are on a longer average. We try to go to 10 years on corn and peas and soybeans and all the rest, but we seem to have become mired down in this experience ratio on the tomato crop, and they want to keep it at six years. If there was a 10-year average, two bad years would not have as much influence on the average.

Mr. Watson: What progress are you making on plant replacement? I think apple trees are now covered. Is just one crop covered?

Mr. Regan: That is correct.

Mr. Watson: What about Mr. Delanghe's grapes and my grapes that got frozen out? If we want to go back in, it is going to take us four years to grow them back, but all you are willing to pay for is the crop we lost.

4 p.m.

Mr. Regan: As far as the grapes you have already lost are concerned, we are not going to cover those. We do have some meetings scheduled with board representatives at the staff level of the Ontario Tender Fruit Institute to discuss the feasibility of insuring vines and trees. At this point, it is at a very preliminary stage.

Mr. Delanghe: May I bring up a point here?

Mr. Watson: So, philosophically, you are working on it.

Mr. Huff: That is correct.

Mr. Delanghe: We hope to, Andy, as fast as we know how, now that the cost of replacing these things is so high.

I would like to go back to the apple plan. This plan of tree insurance is not selling in eastern Ontario; it is selling in central and western Ontario. I just thought I would bring that to your attention.

Mr. Regan: I would like to add, Hector, with 17 contracts signed, I do not really think it is selling anywhere.

Mr. Delanghe: Not really, but it is not selling where it was really intended to sell. It was groomed to take over after the federal government got through with their deal--and I will call it a deal--down there. This plan was supposed to take over, right? The federal government left off one day and we would take over the liability on day two. But the growers are not buying it down there.

Mr. Watson: Okay. Why are the growers not buying it?

Mr. Delanghe: Because it is not going to happen again. That is what they tell me. And, as you know, I am very familiar with the apple industry and every opportunity I get, I ask them.

You have to remember, ladies and gentlemen, we are working on a farmer cost of one per cent. That means you can buy \$100,000 worth of insurance for \$1,000. We figure it is going to happen once in 50 years. Mother Nature will likely prove us wrong, but we have to start someplace. They are just not interested. They have had \$30 million distributed to them and maybe that will go a long way. I do not know. But I am not sitting here condemning them for what they do with their money. All I am saying is the plan is available at a cost. You cannot get a premium much lower than one per cent.

Mr. Watson: Is it the thought of the commission that they have to replant, or is it simply a--

Mr. Delanghe: No, it is open ended. In our plan, there is nothing which says you have to replant.

Mr. Watson: On the apple tree farm.

Mr. Delanghe: On the apple tree farm, yes.

Mr. Watson: I guess it was covered a minute ago, but I had it in my notes. One of the things we do on this committee is recommend changes in legislation that people need or want. The member for London North (Mr. Van Horne) touched on the fact that we are thinking about changing the regulations, or the need to pass a regulation every time you set a fee or change the fee. Will it require a change in the act to do that? Can you enlighten us as to how this might take place?

Mr. Huff: Mr. Watson, I do not think it will require a change in the act, although having said that, I cannot give you any assurance it will not. We still have to take a look at this, but we believe it can be accomplished by withdrawing the section

on the regulation pertaining to prices and premiums out of the existing plan and putting it into a specific regulation that only covers prices and premiums. If it does require a change in the act, we may very well have to consider another approach. This evaluation, and whether we can do it, is at a very preliminary stage. I cannot comment any further.

Mr. Watson: You are not suggesting, though, that the commission be given the power to do this without some kind of regulation in place.

Mr. Huff: No, we are not. In fact, that is not possible under the existing act. We have to specify price options and premiums.

Mr. Chairman: Gentlemen, just one question from me, and I think I know the answer. When you were talking about soybeans in response to Mr. Mancini, I think, on the price options and premium rates for 1984, you used the example of \$7 a bushel option with 25 bushels per acre. That 25 bushels per acre is the crop record of that farmer over X years. Is that correct? Is that where you got the 25 bushels.

Mr. Huff: I was assuming that is what his guarantee was, and that would be 80 per cent of his average yield for a five-year period. That was my assumption when I was mentally going through the exercise.

Mr. Chairman: If he had 40 or 45 bushels, then we would be talking 30 to 35 bushels of guarantee.

Mr. Huff: Yes.

Mr. Chairman: Thank you. I think the researcher has a question or two arising out of previous questions.

Mr. Eichmanis: I wondered if the commission would comment on something called the "efficiency indicator" that the ministry has drawn up and the fact that over the last several years there has been a steady rise. If I am not mistaken in 1982-83, it is now \$113. What accounts for this rise?

Mr. Huff: Basically, the efficiency indicator is obtained by dividing the administrative cost into the total number of--I have lost the right piece of paper.

Mr. Eichmanis: The number of contracts.

Mr. Huff: Thank you. It does not take into account the number of claims we have in any given year. If you trace the efficiency indicator back to 1971, it was \$115. Then it declined steadily to about \$62 in 1975. The reason for the decline in those years was an increase in the use of data processing. Up to that time the commission had basically done things by hand with clerks. Once you get into 18,000 contracts, it is pretty hard to keep track of everything without electronic data processing, so that was adopted.

In the late 1970s we had the blue mould problem with tobacco and we had a substantial increase in claims. The economies we achieved through the adoption of electronic data processing and the growth in the program came to a halt. Every time we have a claim we have to send out an adjuster.

Our cost of purchasing materials has increased substantially. The cost of complying with the federal government visibility requirement came into being in 1982. We had a substantial crop loss that year, as we had in 1983. Salaries, per diems and commissions have been limited in the last couple of years to a five per cent increase, but other factors have probably increased a little more quickly than that. These are some of the reasons the efficiency indicator has gone up.

Mr. Watson: Has the Department of National Revenue contacted you for information on how you determine your efficiency indicator?

Mr. Huff: No, it has not.

Mr. Eichmanis: Is it something the ministry devises for you, or is it something you devise for yourselves? I get the impression it is something the Ministry of Agriculture and Food devises.

Mr. Huff: The efficiency indicator?

Mr. Eichmanis: Yes.

Mr. Huff: I believe the Ministry of Agriculture and Food developed this indicator some time ago as one measurement of how efficient the commission was. It may have done it at a time when it was looking quite good. By the looks of the figures, I suspect it was done about 1977 when it looked very encouraging. I know we have not developed it in the last three years.

Mr. Eichmanis: Does the ministry use this as a way of ensuring some control or accountability on the part of the commission? Under the agreement the province has to pay all these administrative costs. Without some kind of accountability, it is almost automatic it would expand indefinitely because under the agreement with the federal government the province has to pay whatever costs are incurred.

Mr. Huff: I can assure you we do not expand indefinitely.

Mr. Eichmanis: I am not suggesting that.

Mr. Huff: We have the same type of budgetary process as any branch within the Ministry of Agriculture and Food. We go through a number of scenarios justifying the amount of expenditure we require. In fact, every government department today is, as it should be, under constraint. We are all under a great deal of pressure to keep expenditures to a minimum.

Mr. Eichmanis: Will the ministry use that in calculating what resources will be given to you in upcoming years?

Mr. Huff: Normally, the ministry goes through a program of reviewing our expenditures. The efficiency indicator would be but one that they would take a look at.

Mr. Eichmanis: What were some of the other things?

Mr. Huff: We look after a sister commission on stabilization, which also is taken into account. The ministry would look at the number of claims we have. That takes a great deal more work on our behalf and a lot more expenditure. It would review areas where the commission might not be performing as well as the Provincial Auditor thinks it should and would adjust the figures on that basis.

Mr. Chairman: There being no further questions, thank you very much for appearing before us, for being very candid and open and for explaining a lot of things I am sure many of us did not know.

There is no sense in my asking committee members if they wish to start reviewing agencies, boards and commissions at this point. There is one, the Ontario Educational Services Corp. As you will remember, there was a question about it being in a sunset review and it was adjourned. There was the thought of it joining or amalgamating with another corporation, the Ontario International Corp. I think Mr. Watson has confirmed that has taken place. Is that correct?

Mr. Watson: I understand it has or it is in the process.

Mr. Chairman: Graham White was going to check on that.

Mr. Breaugh: What was Graham White going to check on?

Mr. Chairman: As far as Mr. Watson is concerned, it is our understanding that it has been amalgamated. Perhaps it has merged.

Mr. Watson: I understand it is still going to exist until the business has been wound up but that function is being taken over by the other one. The question is whether or not you want to proceed if it is going to go out of business. My suggestion is that function is still going to be carried on by someone, whether it is under that name or under that of the Ontario International Corp.

Mr. Breaugh: What do we have in the way of confirmation of all of this?

Mr. Chairman: Nothing official.

Mr. Breaugh: Perhaps we could find out what we are doing before we--

Mr. Chairman: We have been trying, and it is getting as semi-official as it can.

Mr. Eichmanis: I have contacted the corporation and the unofficial word is that they were going to be merged.

Mr. Chairman: It is the final ABC of this week. Should we try to get an official word?

Mr. Breagh: I think it would be nice if tomorrow morning we had an official word, or as official as we can get. It seems to me it would be a relatively easy thing to cancel that one and do a bit of a review.

Mr. Eichmanis: The other option would be to review the Ontario International Corp., that is, not to do it in this review but to incorporate it in the next review. Thereby we could look at that corporation and this function which will have merged with that of the international corporation.

Mr. Chairman: We will wait until tomorrow morning and try to get an official answer as to whether it has been merged--past tense. After that, we will deal with what we are going to do on Thursday.

The committee adjourned at 4:14 p.m.

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
ALCOHOLISM AND DRUG ADDICTION RESEARCH FOUNDATION

TUESDAY, FEBRUARY 21, 1984

Morning sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breagh, M. J. (Oshawa NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Hennessy, M. (Fort William PC)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Lupusella, A. (Dovercourt NDP)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Sheppard, H. N. (Northumberland PC)

Substitution:

Edighoffer, H. A. (Perth L) for Mr. Epp

Clerk pro tem: White, G.

Staff:

Eichmanis, J., Researcher, Legislative Library

Witnesses:

From the Alcoholism and Drug Addiction Research Foundation:

La Rocque, J. C., Director, Regional Programs Division

Macdonald, Dr. J. B., Chairman

Marshman, Dr. J. A., President

Popham, R. E., Director, Social and Biological Studies Division

Schankula, H. J., Director, Education Resources Division

Sellers, Dr. E. M., Director, Clinical Institute Division

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Tuesday, February 21, 1984

The committee met at 10:11 a.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
ALCOHOLISM AND DRUG ADDICTION RESEARCH FOUNDATION

Mr. Chairman: Gentlemen, I see a quorum in place.

We have with us this morning the Alcoholism and Drug Addiction Research Foundation. Perhaps some of you would come up to the microphones. The primary spokesman might introduce himself and then identify the other people with him.

Dr. Macdonald: I do not consider myself to be the primary spokesman, but I happen to be the chairman of the foundation. I think the primary spokesman is our president and chief executive officer, Dr. Joan Marshman, who is beside me.

My name is Jack Macdonald. I would like to introduce my colleagues. On my left is Dr. Ed Sellers, who is director of the clinical institute division. On the right-hand side is Mr. John La Rocque, director of the regional programs division. The gentlemen who are sitting in the bleachers include Mr. Henry Schankula over on the far left, who is director of the education resources division; Dr. Donald Meeks, director of the School for Addiction Studies; Mr. André Charles, who is director of administrative and support services division, and Mr. Robert Popham, director of the social and biological studies division.

First of all, I would like to say how much the foundation welcomes this opportunity to meet once again with this committee. As you will know from your own review, we last met with the committee in 1978. We have gone through the experience of reviews many times, probably 23 or 24 times in the last 20 years or so. Those reviews have been initiated sometimes by government, by the Legislature, by the Ontario Council of Health with whom we had a relationship, by the members of the foundation themselves, either at internal reviews or external reviews at the direction of the members, and by our professional advisory board.

We see all these reviews as representing an opportunity to describe how the foundation is responding to its mandate. Nevertheless, as I was saying to your research director, Mr. Eichmanis, there is a certain amount of frustration associated with them. Some of the reviews, and I put this review in that category, seem to us to be too short to provide a substantial overview that is satisfactory to the foundation. That is the name of the game and it is not intended as a criticism, just as a fact.

On the other hand, there have been a number of very extensive, comprehensive reviews and these culminate in comprehensive and lengthy reports that generally do not get read

by very many people. That leaves the members and the staff feeling that too few people have a good grasp of what the foundation is doing for the people of Ontario. That is a matter of concern to the members of the staff and certainly to the members of the foundation at our regular meetings. We do make efforts to try to address that problem as best we can, but I think we have never been fully satisfied we do so with a degree of success that is satisfactory to us.

We are here today to do the best we can to present a fair and balanced picture of the foundation's activities. Subject to your wishes, I would like to suggest the president be allowed to make an introductory statement, which will be fairly brief, and that most of the time be reserved for us to respond to questions in order that we can address the issues which are of interest to the members of your committee.

Dr. Marshman: Mr. Chairman, because you do have a general briefing document, I would like to confine my remarks to three areas: first, the context of the foundation's work, that is, alcohol and drug problems in Ontario; second, some of the impact of the foundation's work on the people of Ontario over the years, and third, some aspects of what makes the foundation's programs and activities different from those of some other groups in the field.

First, with respect to the context, the drug about which we hear the most, of course, is alcohol. According to the research findings we have, there is good evidence that alcohol is a major problem for the people of Ontario. According to our estimates, some 200,000-plus people are drinking at levels that place them at very considerable risk with alcohol related health and social problems. This includes some of the people who present themselves to treatment services.

In addition to those 200,000 plus, an additional 700,000 people are drinking at levels that increase their risk over those who drink less. So we have close to a million people who are engaged in potentially hazardous use.

You are probably also aware that the six leading causes of death, which are heart disease, neoplasms, vascular disease, accidents and suicide, respiratory disease and cirrhosis, which account for about 77 per cent of Ontario deaths, involve one, or more, psychoactive substance as an ideological agent. So the contribution to morbidity and mortality is significant.

As far as the costs go, I think one measure is what it does to the health care system. It is estimated that some 10-plus per cent of hospital bed occupancy in the province is attributable to alcohol-related problems. The best estimate of dollar costs has come for Canada rather than for Ontario--health costs, property costs, accidents, absenteeism and so on. When we separate Ontario, it looks to be about \$1 billion.

These costs are pretty staggering, but we realize government policy development with respect to alcohol has to take into account the benefits as well as the costs of alcoholic beverage

production, distribution and use. We do recognize taxing profits to the government of Ontario of some \$700 million-plus in 1982-83 and considerable employment and tax generated through the industry.

Tobacco is a second drug which I think we all recognize as being problematic in terms of lung cancer deaths, bronchitis deaths, ischaemic heart disease. One fact we have to deal with is about 30 per cent of the students in grades 7 to 13 have used tobacco at some point within the year preceding a recent study and about 11 per cent of them are smoking at least six cigarettes a day. In other words, they have a steady pattern of use of tobacco even at that young age.

When we get into the costs associated with alcohol, those we can measure, again we face significant costs in illness and premature death, and again an offset, if you like, with respect to tax revenue and the employment and tax generation through the industry.

10:20 a.m.

It is clear both alcohol and tobacco constitute major public health problems, or provide a basis for them. The data are less tight for other drugs; that is, they are less well quantitated. We know, however, that cannabis is a drug which is used by large numbers, in particular by young people.

Going back to the school system, if you look at students in grades 7 to 13, about five per cent of them say they have used cannabis on an average of once weekly or close to it over the preceding year, so these are regular users. From the level of cannabis use, we can then descend through other drugs such as LSD, barbiturates and so on.

Overall, about 18 per cent of school students in that grade level have reported some use of what we would see as illicit drugs. That is exclusive of cannabis, glue and solvents; if you include those we are talking closer to 30 per cent.

It is clear government has a problem in compartmentalizing these issues. From our point of view, an optimal response would minimally interfere with benefits that might accrue while reducing the damaging consequences. We see that provision of treatment services is one dimension of this. We also see that the support of research efforts aimed at improving the services, generating information relative to primary prevention and identifying means of communicating the information effectively is also important.

With respect to the foundation's contributions over the years, I can give you examples. I do not think in the time we have we can do a comprehensive listing. It is pretty clear we still have an alcohol and drug problem with us. It is also quite clear there are some measures that might theoretically be considered that simply are not feasible within the cost-benefit picture that has to be considered.

Despite this, there have been some substantial benefits to the people of Ontario. Some of those examples can be cited in the

treatment services system, in the education prevention system and so on. I would like to give just a few.

If you look backward a bit, Ontario's nonmedical detox system was developed on the basis of foundation advice. The availability of Temposil as a drug in the treatment of alcoholism was developed as a result of the foundation's effort.

More recently, there are some cost-reducing approaches to treatment services that we consider important, cost-reducing approaches to medical detox patients who use drugs other than alcohol, in particular, sedative hypnotics and high-risk alcoholics for whom medical detox is in order.

The trials for which the preliminary results only are available now are drugs such as propylthiouracil for the treatment of alcoholic liver disease which, according to the preliminary results, should markedly shorten the hospitalization period for this problem and thus reduce our cost.

Studies of neuropsychological deficits, that is, alcoholic brain damage problems, have given us a basis for determining what are probably the most cost-effective approaches to the provision of treatment services to people who have recently stopped drinking.

There is the development of screening and assessment tools that can be used by family physicians or health clinics to identify people with alcohol problems at early stages. One you have probably heard about of late is the so-called alcohol dipstick which we hope will have application not only within clinical settings, but also will potentially provide a basis for self-monitoring by social drinkers in the context of their avoiding drinking and driving problems.

I could go on at some length about the contributions that relate to the treatment services system, but perhaps the one I will make do with for this point is the clinical institute's provision of treatment services. As a teaching hospital of the University of Toronto, it provides inpatient, outpatient and emergency services. We have something like 1,500 or more new patients annually. Last year there were about 27,000 outpatient visits. The case load for direct treatment services is pretty substantial.

The other point that should be made in the treatment services context is the development of a systematic approach to treatment services within the province which puts the emphasis on adequate assessment, referral, primary care, case management and an emphasis on outpatient and day treatment as opposed to seeing inpatient treatment as the cornerstone of the system.

In the area of public education and prevention, the most significant products of late have been the educational packages that have been developed for school-age young people. Like most other people who try to reach out to young people, we are increasingly going to video as well as print material. We expect to get more into computer-based teaching systems in the future. The emphasis in these programs has been on alcohol, cannabis and

tobacco because these are the three drugs which studies have shown us are most used by young people.

Another more recent development is the Dial-A-Fact information system which is available to all residents of Ontario on a toll-free basis. These are brief four-minute to six-minute tapes on specific subjects. This makes it possible for people for whom the print materials are not particularly adequate, because of reading problems or because they simply do not respond to print materials, to gain information on specific drug topics.

The professional education and training services have been noteworthy because they have influenced curricula in some of the health professions. I think the major ones I would note would be medicine, pharmacy and social work, where we are involved in the undergraduate, graduate and postgraduate placements. I think last year we had 112 placements within the foundation. Also, in the teaching of courses within the university and college context, we were involved in about 81 courses, reaching about 5,000 students last year in a range of disciplines, physical and health ed, the health care professions and so on.

The other dimension of our professional education activities is through the School for Addiction Studies. Last year about 700 people enrolled in courses in the school. We started out with a very heavy foundation staff involvement and we have now shifted to a very heavy community involvement. We are trying to make these courses available outside of the Toronto area by moving them out into the communities in Ontario. This year, for the first time, we will be trying the Telehealth approach so that we can reach into northern Ontario.

The trainees in these programs range from physicians and social workers to union leaders and native community leaders, and subject areas from employee assistance programs and community development process right through to family therapy and the principles of Alcoholics Anonymous.

Finally, what makes us different in our programming and activities from other groups and organizations? The first thing is that we have a statutory mandate and we program in ways to be consistent with it. Second, our programs are, to the greatest extent possible, based on research-validated principles rather than on moral positions, personal experience or a profit-making motive.

The quality of the research: Our research programs are monitored through formal peer review systems both internally and externally. Our community consultants have the backup of a range of experts, including scientists and clinicians as they do their work in the community. We have distribution of staff across 28 centres in Ontario and therefore we can respond to the unique needs of a northern community such as Dryden in the same way as we can respond to people in the major centres.

Increasingly, we have been working with and through the community in the implementation of programs so that our consultation, both in our community programming and in the

development of our educational packages, is increasingly linked into dialogue with other groups.

10:30 a.m.

There are two final points on what makes us different. Basically, we do not charge fees to residents of Ontario for our treatment services, employee assistance programming or educational programs. I think the sustained funding of the foundation has made it possible to develop a group of highly competent career staff in this field, researchers, treaters and educators. That is in contrast to the rather transient movers in and out of the field, who are a fact of life when you are dealing with hand-to-mouth funding. I think the financial stability of the foundation through grants from government has made possible that development of a career corps.

Mr. McLean: Dr. Marshman, in your remarks you indicated there is approximately \$700 million in revenues in 1982-83.

Dr. Marshman: Yes.

Mr. McLean: Is that for 1982 and 1983, or is that for one year?

Dr. Marshman: That is for fiscal 1982-83.

Mr. McLean: One year?

Dr. Marshman: Yes.

Mr. Lupusella: Mr. Chairman, I am particularly concerned about the money this agency of the province is receiving from taxpayers of this province. Although I realize the importance of this agency in dealing with the social problems that have been enunciated in the course of your presentation, I think the agency is faced with two major problems, one being alcohol and the other tobacco. Those are the two major problems people in our society are affected by, besides dealing with other components and segments of your operation.

On the one hand, I share the principle that this agency is of value in being operated within the framework of our society. On the other hand, I am concerned about the total amount of money the agency is receiving from the general revenue fund when the use of tobacco and alcohol is caused in part by the advertising of brewers and tobacco factories and manufacturers. I would not mind seeing their involvement in paying the cost of the operation of your agency for problems that are caused by their own operation.

To give you an example, we have the Workers' Compensation Act in Ontario, and the premium for the people who get injured is paid by the employers. I want to make a comparison in this case, because workers are working for employers who are directly or indirectly responsible for the injury. Do you not agree with me that brewers and manufacturers of cigarettes should play a bigger

role in subsidizing your agency rather than the total amount of money coming from the province? Can you make any comment on that?

Dr. Marshman: I will make an initial comment, Mr. Chairman. Then Dr. Macdonald may like to amplify.

For some considerable time our board has held a principle with respect to funds from the alcoholic beverage industry that basically indicated it would be a compromise position to accept funds from that source for some of our endeavours. That principle had a reasonable foundation. To the best of my knowledge, it arose because many years ago there was a proviso built into the offer of a certain amount of funding, which said, in effect, that the beverage alcohol industry would hold veto power over the content of educational materials. That is ancient history at this point.

Our board reconsidered its position about a year ago and determined that, provided there were safeguards built into the programming, which meant the programming would not be compromised by adverse interests, there was no reason funding could not be accepted from the beverage alcohol industry for research programs, for example, provided safeguards were built into the programming, which meant the programming would not be compromised by adverse interests. One of our scientists, for example, now holds a grant from the brewers' foundation, I think it is called; it is a North American foundation.

The second point I would make is the board has recently agreed to our approaching the beverage alcohol industry to solicit support for professional training activity, specifically the training of some physicians in formal residency programs in addictions. Since the foundation has the only post-graduate residency program in medicine of addictions in Canada which is recognized by the Royal College of Physicians and Surgeons of Canada, it was agreed we should try to enhance the training quantity that we are able to provide. We cannot do that with the existing funds; we would like to approach the beverage alcohol industry for that.

I guess those are two specific examples of an emerging effort on our part to solicit some support from that source. I expect Dr. Macdonald would like to speak to that as well.

Dr. Macdonald: I think Dr. Marshman has identified ways in which we are developing direct relationships with the beverage alcohol industry, but I think your question was intended to be broader than that. I think you are concerned with an issue we see as really being at the heart of the dilemma. We have two major public health problems attributable to tobacco and alcohol, but tobacco and alcohol are also the result of industrial and production activity in this province.

You are questioning whether or not the industries themselves should pay a higher percentage of the cost of supporting the foundation. If industry representatives were here, I think they would say they do, in fact, pay a very high percentage of the cost through the high level of taxation on alcohol and tobacco.

From the foundation's perspective that tobacco and alcohol use result in public health problems, the substantial advantage we see in having the high cost of these products is the inhibiting effect it has on consumption. I think the evidence is quite clear.

At the same time, it does mean consumers and industry pay a substantial rate for the public health problems resulting from tobacco and alcohol. It would be possible--and the idea has been raised from time to time--to have a dedicated tax, which goes directly from the industry or from the product itself to the foundation. This jurisdiction, and I think virtually every jurisdiction in Canada, has avoided the concept of dedicated taxes. On the grounds of sound fiscal management, I think where the money comes from is one side and how it should be spent is another.

I believe the real issue at the heart of your question is what the appropriate level of funding is for the foundation in relation to the size of the problem and the extent to which the foundation should be able to deal with those problems. Funding has been reduced in recent years, as it has in most areas of government expenditure, that is, reduced in absolute terms or in constant dollar terms.

10:40 a.m.

Whether the present amount is correct, from the standpoint of government policy, is a matter for government to answer. I would only comment that the amount provided is about \$25 million to cover all of the issues. If we deal only with tobacco and alcohol, we have revenues to government that are in the order of \$1.5 billion.

Mr. Lupusella: Mr. Chairman, if I may respond, the foundation, as you say, clearly is in a dilemma in approaching this problem which affects society. I understand that. On the one hand, you say you cannot be very independent because you receive money from the government and, on the other hand, you say if you were receiving money from the industries, your role will be undermined in some way.

I do not mind seeing a special fund set aside to which the industries will make contributions. That is where you should get the money because they are causing the problem; I am not causing the problem. You are particularly concerned about students--kids smoking marijuana, smoking cigarettes and drinking alcohol and so on. If you watch TV, you will see the industry is spending millions of dollars on commercials. My son who is three years old sings the songs these brewers have in their commercials.

Mr. Hennessy: Is he a good singer?

Mr. Lupusella: It is crazy process. They are the cause of the problem and they should pay for it. Society actually pays in two ways for a problem it does not cause. Besides the tab for this, we must pay for the high cost of hospitals, because a lot of people might end up in hospital. The problem is in some way caused

by the industries which try to influence us. We should have a strong will to refrain from smoking and so on, but this is not the kind of life we are seeing on a daily basis.

I have seen individual members raising the issue of brewery commercials in the Legislature, but I never see your agency taking a clear stand and trying to oppose what the industries are doing. You have the capacity to take such a stand before the public because you receive money from the government and you are not biased. I appreciate the programs implemented by your agency, but with great respect, I never see it taking a high-profile stand to fight what the industry is doing. Yet this is at a time when your agency is particularly subsidized by the province and you are in the best situation to do that. Why do you not do it?

Dr. Macdonald: I would like to comment on that question. We are as aware as anyone of the tremendous amount of advertising that goes on. We are also aware the Canadian Radio-television and Telecommunications Commission has regulations for the alcohol industry that apply to advertising on television and radio. There are regulations in the individual provinces as well.

We have expressed our view to the commission chairmen across this country that there is no clear identification of what the objectives of regulations or control of the advertising industry are. We see no clear statement of what these objectives are now or what they should be. Our foundation has proposed to the chairmen of the foundations and commissions across the country and to Health and Welfare Canada that we examine this issue collectively. We have proposed that we try to develop a position jointly about what the objectives really ought to be.

Then comes the question of how they can be implemented. Implementation is going to be a problem. One of the difficulties, for example, is that we are told constantly by the industry that advertising has no effect on the total volume of sales, that it only affects share of market.

That insults my intelligence. I do not believe that is the case and I do not believe the expenditures would be at the level they are if it was simply share of the market, but getting evidence by which one can measure the impact of advertising has eluded us completely. We have sought the co-operation of the industry to conduct studies in this area and we have been refused their co-operation.

I believe the regulations which exist at the present time make virtually no sense at all. For example, one of the regulations is, "Individuals shall not be shown to be actually consuming the product." What on earth difference does that really make? I cannot imagine it makes any difference whatsoever. That is an example of the way in which it seems to us the objectives of regulations have not been clearly identified. We are trying to see whether we can address that collectively across the country in the hope that may have a greater impact than trying to argue with the industry when they have the facts.

Mr. Lupusella: From the \$26 million or more the foundation spent in 1982-83, how much money did you put aside to reach the community, to reach the public about this serious problem? I saw commercials from the the Ministry of the Attorney General and from the Ministry of Transportation and Communications about the danger of driving when a person is drunk.

There is a price tag in that a person might kill others who are extremely innocent. What kind of law do you have on the prevention aspect of your foundation to make sure you reach the community? I am a great believer in prevention. I see the role of your agency as dealing more with the problem than with preventing the problem and trying to find an answer to the problem. If a person is addicted to alcohol, you try to give him an answer as to how he should be rehabilitated, but I do not really see prevention involved in your foundation. I do not perceive such a message. What are you doing for that?

Dr. Marshman: That is a question I think should be responded to by Mr. Schankula.

Mr. Schankula: Mr. Chairman, in the past the foundation has advised government in relation to prevention activities. For example, in 1978 our strategy document was circulated to all members of the Legislative Assembly.

That document had a number of recommendations, including the overall thrust of no further liberalization of alcohol control measures. It also addressed pricing policy. At the time, it recommended that the legal drinking age be increased; it subsequently was. One of the important recommendations was that lifestyle advertising of alcoholic beverages be discouraged. This goes back five years now.

We also recommended there be a vigorous effort to increase public awareness of the personal hazards of heavy alcohol consumption, the economic and other consequences for society of high consumption levels, and the potential public health benefits of appropriate control measures through an education program.

At that time, in 1978, we felt this was an appropriate mission for the Ministry of Health itself. The Ministry of Health had and still has a program of mass media advertising. We wanted to reinforce and encourage that.

10:50 a.m.

The foundation's education programs have been primarily directed at interpersonal and small group effort and through the distribution of specific education and persuasion programs. Frankly, we have avoided the mass media area because research is not clear as to whether the expenditure of money, and a tremendous amount of money, is warranted in that area. I believe at the time about five brewers, for example, were spending in the neighbourhood of about \$30 million a year on advertising. For us to counteract that kind of expenditure with counter-messages would obviously embrace more than the total expenditure of the foundation.

Mr. Lupusella: That is why I want the industry to give money to the foundation, not directly, but to put aside a special fund. It would be like a premium they have to pay, and the government would dispose of the money to people like your agency to counteract what they do. Again, that is trying to find a solution to a problem without really preventing the problem.

The scope of your foundation is extremely limited as far as I am concerned and not very effective. It is like treating an individual who is affected by cancer by exposing him to an environment of chemicals that cause cancer. It does not make sense. The first action should be to take that individual away from the polluted environment and place him in a clean environment, while at the same time trying to find a cure for the cancer.

I can see a role for you that is clean, clear and effective. We are faced with the problem that everyone is paying the price for it, directly or indirectly. Your agency is given only about \$26 million. You have your own activities. I am not critical of what you are doing, but I am critical about the concept of your agency, which is unable to deal with the serious matter of prevention.

Really, I do not feel your agency has had a high profile in the past. I have been a member of Parliament since 1975 and I have received your report on an annual basis, but if I was not a member of Parliament and I was a member of the public, I might not even know your foundation was there.

Dr. Marshman: I have a couple of points. First, the actual dollar allocation to education, which is reflected in the annual report for 1982-83, is in the order of \$3 million. To that should be added a certain amount of the community development allocation because public education is done in part through community development, and also the unseen contribution of public service announcement time from the media.

We have been increasingly successful in getting the media, particularly radio and some selected TV stations, to carry such messages. Within the last year, we have developed a media advisory committee and we are trying to use the mass media to a greater extent than we ever have before, because we realize the mass media contribute to the climate in the community.

In the past, we have done this largely through radio. In the future, we hope to be successful in getting some public service spots. Clearly, we cannot pay at the same rate as the alcohol beverage industry does for the time on TV. We hope we will be successful in getting contributions because we have the capability of producing broadcast-quality materials for their use.

Mr. Schankula: Mr. Chairman, I would like to bring to the committee's attention some of the educational materials available to the consumer and to professionals. They are illustrative of the type of things we do make available.

One last comment from me in relation to the issue of high-profile mass-media advertising is that this obviously involves a tremendous amount of money, millions of dollars. Until now the foundation has taken the position, although this kind of expenditure would perhaps be worth while, we just cannot afford it at this time.

Dr. Macdonald: I would make one further comment in relation to the issue you are raising, which I think is a very interesting one. The area of alcohol and tobacco is not really unique. There are many things we do in our society now in the way we live our lives which have risks attached to them.

If one were to apply elsewhere the kind of principle you are talking about for the alcohol and tobacco industries, we would run into some difficulties. For example, the existence of an automotive industry creates all kinds of tragedy, hazard and cost for us. I rather doubt you would argue that all of this could be placed on the automotive industry. It is a societal problem. All of us share in it. After all, we collectively decide we are going to have alcohol and tobacco as legal drugs, so it seems to me that society as a whole shares in it. It is not entirely fair, I believe, to place all of the responsibility on the industry.

Mr. Lupusella: That is why in my previous statement I said we are responsible as well because we are influenced by what the industry does.

Mr. Chairman: Thank you. Could I explore one area? Last September we had in front of us the Ontario cancer foundation. They are carrying on campaigns with regard to smoking. Is there any overlap between your organization and the Ontario cancer foundation in the area of smoking and education regarding smoking?

Dr. Marshman: Mr. Chairman, there are two or three aspects in answer to that question. First, the ARF's smoking research program was developed so that it would not duplicate any of the efforts of the Ontario Cancer Treatment and Research Foundation. Our program has its basis largely in the behavioural and pharmacological areas.

The second point I would make is that, although not the cancer foundation, the Canadian Cancer Society has had representation on the program development team for our foundation's development of a smoking education program for young people between the ages of six to nine. We are ensuring thereby that we are not duplicating any of their efforts but complementing them.

The third point is that we have been in contact with the Ontario Cancer Treatment and Research Foundation with respect to its thinking about public education programs for young people and have raised with it the possibility of a collaborative endeavour in future programming.

Mr. Van Horne: Last fall I was contacted by a person in London, Ontario, which is my home town, and that person was

involved in the People to Reduce Impaired Driving Everywhere program. That individual was seeking some direction because of concern with the drinking-driving phenomenon and was seeking some support for beefing up the school programs.

I am wondering if that theme has been presented to you. Do you work with school boards and the Ministry of Education in providing materials, etc.? If so, how does that work? Do you do this through individual school boards? Are you working on individual requests, etc.? Could you fill us in on that?

Dr. Marsham: Yes. I think we can best deal with it from two perspectives. The first can be covered by Mr. Schankula because his division is responsible, especially the program development aspects.

Second, I think Mr. La Rocque should speak to it from the point of view of the individual communities.

11 a.m.

Mr. Schankula: From the program development aspect, when a particular issue is identified--and we have targeted the schools and young people for the 1980s as a prime target area--we have developed project teams which have in the last year included representatives from the Ministry of Health and the Ministry of Education as well as local representatives from the foundation staff and in some cases from boards of education. That is how the program Butt It Out, the smoking kit that was previously described, was formulated, and a program on alcohol and adolescence which involved, in part, drinking and driving issues.

The second level in program development is that we have established a working group on the school system to re-examine once again the curricula, teaching materials, teaching objectives, what is available, what other people have done, and apply this thinking to Ontario. In this area, we again have representatives from the Ministry of Health, the Ministry of Education, the Ontario Teachers' Federation and the Ontario youth secretariat of the ministry. The principle, obviously, is to involve all the relevant people in the planning and eventual implementation of programs.

This working group will examine curricula and teacher guidelines and come up with a package of best advice for schools in Ontario, probably in the fall of this year. Drinking and driving is one of the key issues.

That does not mean we are not doing anything right now in schools. For example, at this moment we are concluding a poster festival which invited children in schools across Ontario to submit messages that we can use to give back to them--in other words, soliciting ideas from the target audience itself. Right now, we have well over 4,000 entries.

We have also developed these three teaching packages this year, one on smoking, one on alcohol and one on cannabis. In

addition, we have regular materials that are ongoing in terms of factual information on all kinds of drugs. We just recently issued a new booklet on marijuana, some answers for parents and young people, which has become extremely popular. It addresses most of the key issues. We have inaugurated the Dial-A-Fact telephone response system. We have had many students call between the hours of 9 a.m. and 9 p.m. and be able to get confidential, factual, scientific information by telephone in the privacy of their own homes without identification.

Mr. Mancini: What do you mean by confidential?

Mr. Schankula: No one asks who they are. We do not say: "Who are you? What is your problem?" etc. They can listen to the tape as often as they wish.

Mr. Lupusella: This is a new program?

Mr. Schankula: This is new. We started it in Metro Toronto in November. It received an excellent response. We broadened it to Ontario just two weeks ago.

Mr. La Rocque: On the question of our ability to respond to requests at the local level, I should mention that we have 30 offices that we believe are strategically located throughout Ontario. We happen to have one such office in London. We work throughout the province with groups such as People to Reduce Impaired Driving Everywhere.

Also, we work extensively with school boards. Many of the school boards we work with are in the Toronto area because that is where most of the school population is, but we do have extensive programs right across Ontario and we try very hard to be responsive to requests at the local level.

With respect to that aspect of your question having to do with drinking and driving, perhaps it is known to the members of this group that the Addiction Research Foundation was significantly involved in the establishment of the initial Reduce Impaired Driving in Etobicoke program. We were also involved in assisting the Metro police in expanding the program to the entire Metro area. Another program was developed in significant measure because of the efforts of the foundation in the Niagara area. In addition to that, there are several court referral programs, such as those in North Bay and Oshawa, that have been developed primarily as a result of the efforts of the Addiction Research Foundation.

I believe we have a very good capacity to be responsive at the local level.

Mr. Mancini: I will try to be as straightforward as I possibly can. First, I would like to say I am sure everyone associated with the foundation is dedicated, sincere and really believes in what he is doing. But after having done some background research on the foundation's work and after having gone through our own researcher's report, I am not sure we are getting

\$26-million worth of service as it affects alcoholics on the street and people who are having problems in their homes, etc. Is it correct the vast majority of this money comes from the Ontario government?

Dr. Marshman: That is correct.

Mr. Mancini: Do you get any money whatsoever from private sources?

Dr. Marshman: Yes. We get approximately five per cent as opposed to 95 per cent.

Mr. Mancini: We are talking about a lot of tax dollars going to the institution. I am sure you want to provide the best services you can to the general population. Let me tell you where I am coming from. I basically believe that many of the things you do can either be done by the Ministry of Health within the ministry or can be done by the universities on a contract basis for far less money than the present sum of \$26 million that is being expended.

When one goes over the objectives of the foundation, one can see you are interested in a great deal of research. You want to compile data, studies and things like that. In my view, I cannot see why the universities or the Ministry of Health cannot do that. I am sure some of your work is already being duplicated.

I am sure that is a fact with different university professors making applications for some of that \$42 million of Lottario money that is given out from several ministries that control that money. I am absolutely sure some of that money is going to work that is either duplicating your effort or you are duplicating their effort.

Can you convince a sceptic like me why we should continue to fund your organization to the tune of some \$25 million or so on a yearly basis? What are you doing for the average family out there in the general population that has an alcohol problem?

Dr. Marshman: It is a big question. Just for clarification, can I take it that although you would like an answer to what we are doing for the average family in Ontario with alcohol problems in the broad sense cutting across our mandate, it is really the research dimension that is of particular concern? Did I understand that correctly?

Mr. Mancini: Yes.

Dr. Marshman: I would suggest we ask Mr. Popham to address that since he has the longest history of research involvement of any of us at the foundation.

Mr. Mancini: Let me add to that. It is not only the research. I do not have to be convinced and the family that has alcohol problems does not have to be convinced that research is needed to try to help the alcoholic. I am not here so much to be

convinced that you people do good research work. I am sure you do. But is research work all we are getting for this \$25 million or \$26 million? We could farm that out to the universities. Why should we have a gigantic structure in place that has 27 board members? Is that it?

Dr. Marshman: No, it is 15.

11:10 a.m.

Mr. Mancini: It is 15 or 17. When I look at your structure, you have: executive officers, eight; department directors, 18; secretarial-clerical, 147; operational services, 86; a total complement of 671 personnel. We have a pretty large and significant structure set up here. I am convinced the research work you do is probably quality research work.

Mr. Lupusella: They are not all Tories.

Mr. Mancini: Does that have anything to do with it right now?

Mr. Lupusella: I am sorry about my remark.

Mr. Mancini: We will just ignore it.

Dr. Marshman: Mr. Chairman, I still think it is appropriate for Mr. Popham to speak to this issue. But for clarification, it is important to recognize that the \$26 million is broken down with roughly one third of it going to research, one third to treatment services and one third to prevention.

Mr. Mancini: We will get to the treatment services next.

Dr. Marshman: Okay. So with the 670 staff members, we are also talking about the staff at the teaching hospital and the staff at the 30 offices across Ontario.

Mr. Mancini: We will discuss those offices a little later, too.

Dr. Marshman: That is fine. I would like to have Mr. Popham speak to the research dimension.

Mr. Popham: Mr. Chairman, I am not entirely clear as to exactly what the question is, but at least part of it is why the research is done.

Mr. Mancini: Is there any way I could help you? I want to be very clear here; we are talking about a lot of money.

Mr. Popham: Do you want to know why the research is not being done in a university?

Mr. Mancini: I do not want the panel to answer my questions by starting off saying they do not understand my question.

Mr. Popham: I am sorry. I do not.

Mr. Mancini: If you do not understand my question, I will clarify it.

Mr. Popham: Would you do that, please?

Mr. Mancini: Yes. I want to know what value we are getting for \$25 million. What work are you doing that is different from what is already being done in the field by the Ministry of Health or by the universities? Why should we give this money to you instead of farming it out to the universities? Is that clear enough?

Mr. Popham: I can address only the research part of that question, which costs, with administrative overhead, about one third of that \$25 million. So I am speaking about approximately one third of it.

We did begin in this field by trying to farm out the research to the universities. On the whole, that was a dismal failure. This field has a low priority in academic circles. While the situation is much better than it was in the past, it is still a politically sensitive field.

While the research one wants should be highly practical and highly applied, universities to a very large extent emphasize basic research. In the medical schools and in social science departments at university, there is very little encouragement for continuity of the sort that is needed in this field. It is also extremely difficult to do interdisciplinary research in the university.

Universities are traditionally structured in departments which are related to discrete disciplines. This field is highly interdisciplinary in character. We have a series of chemical substances which are taken into a biological organism in a social setting. Where people are interacting with other people, subject to laws and all manner of pressures, this whole package has to be taken into account in an effort to understand the problems with which we are concerned.

Pharmacologists have to react closely with psychologists and psychologists have to react closely with sociologists, anthropologists, epidemiologists, social workers and psychiatrists. It is extremely difficult. I cannot think of a mechanism by which a university could create an interdisciplinary unit with career scientists that would maintain a cohesive applied program to address the problems of alcohol and drug addiction. It is not for want of trying. Yale University in the United States tried and gave up; Rutledge has not been very successful.

I would assume the history of perhaps the three major statutory foundations, certainly ours, would indicate it was in some way realized by the people of Ontario and its legislators that it was not working very well.

The return was very poor for the tax dollars when for a

number of years we operated purely on a grant basis. We were simply a granting agency and we made grants to whoever might apply from university circles. The return was poor. More often than not, there was not even a proper report at the end of the project. With one or two notable exceptions, little valuable work was done that way. To get anywhere, we began to have to build up our own cadre of career scientists.

Over the years, the chief breakthroughs we have made have not been possible except by a sustained interdisciplinary effort, such as the highly important work on alcoholic liver disease which grew out of our laboratory, targeted basic research, and the epidemiological work which relates closely to the problems you were raising about the effects of overall consumption.

Our epidemiological research has taken nearly 20 years to arrive at the point we are at now. The problems are formidable and time consuming. I do not think we would have had that continuity in the university setting. There are, of course, certain areas where it is more cost-effective to seek out university researchers and to support them under contract. We do exactly that and have continued to do that over the years.

If you want to study the effects of alcohol on the human brain, and the best way to do it is with a computerized axial tomography scan, it would be ridiculous for us to apply for the money to buy such a piece of apparatus when it exists in a suitable university teaching hospital. We endeavour to interest someone to undertake the project there. There are extensive laboratory studies where we do the same thing on contract. That is the most cost-effective way.

The cost of a great deal of our research is related to the cost of the individual, the salary of a career scientist. The operating costs are not great. What we are really buying is a group. The foundation as a whole has the full-time equivalent of about 45 scientists. That is the real resource; 75 per cent of the cost of the research is the salaries of those people and their support staff assistants.

I stress again that I am answering only one third of the question you are asking. If you want me to try to enumerate some of the specific kinds of what I see to be benefits or potential benefits that have arisen from that research over the years, I will try to do so.

Mr. Mancini: I think that addresses in a general way the question I was posing. If the 45 scientists and support staff you have eat up three-quarters of your research budget, that pretty well answers my question. I assume they do research work on their own initiative and on recommendations from other legitimate groups and/or the government. I assume you get letters, requests and perhaps memos from certain government officials to do specific types of research. Is that correct?

Mr. Popham: That question is quite clear. First and foremost, since these are career scientists we are talking about it is expected, and the expectation has always been met, that they

will be closely in touch with their own fields in general, whether in a university or elsewhere, and will be closely in touch with what is going on. They are supposed to be up to date in their specialties.

Second, they must do their research within the framework of foundation goals, the ones which were listed in the research document for this committee, the 10-odd goals. All the research must be seen as directly related to that.

Third, there is an internal review system to review both the scientific quality and ethical aspects of research, which is a peer review system.

11:20 a.m.

Fourth, there are indeed specific priorities arising from time to time, some of which certainly do come from government by one route or another. It may be simply that one perceives the Legislature is giving a high priority to one area of the problem, such as drinking and driving, for example, or the drinking age. We try to respond to such priority indications.

Mr. Mancini: I find it hard to distinguish what you are doing, with the amount of research that has taken place over the last 20 years in North America, in the private sector or the public sector, at Yale University or the University of Toronto. When I look at the family that is being affected and destroyed by alcoholism, I cannot see where the type of research you do is any different from what is already out there in libraries, etc. Neither can I see how the type of research you are doing is going to be able to help a particular family or a particular alcoholic.

If you are saying the research is going to show the long-term effects of drinking on a family or the long-term effects on the person's brain or the long-term effects on the person's job performance, I frankly am not sure that is money spent wisely. Would it not be better to use that money for direct, local treatment across the province? Would it not be better to build up and give more support to Alcoholics Anonymous centres instead of duplicating research work that is done at Yale or Harvard or over in England or some place in France?

One third of \$25 million is about \$8 million. Why is it necessary to spend a full \$8 million to do the type of research you are talking about?

Mr. Popham: I guess I can respond to that only partly. Perhaps Dr. Marshman will wish to touch on another part of it.

A good part of the research--by no means all of it; perhaps a third--is directed more at the primary prevention area. It is aimed at trying to build up the knowledge base needed for primary preventive efforts rather than your specific application to a specific family in the community.

Mr. Mancini: Would you give us a broad view of what primary prevention is?

Mr. Popham: I mean education, research, research on epidemiological aspects that might be--

Mr. Mancini: Let us bring it down to the layman's level.

Mr. Popham: Okay. We would study something like the effect of the government's decision to sell beer in the ball park, for example.

Mr. Mancini: If the government, in its wisdom, has decided to allow beer sales to take place in the ball parks, why would you want to study that?

Mr. Popham: Because the government, in its wisdom, said this was an experimental situation and it would wish to review it in a year or two. It hoped we would have input into that review and we have had.

Mr. Mancini: I am sorry, we are getting a little off track here but this is very interesting. You studied the sociological impact of beer in the ball park. Is that what you did?

Mr. Popham: We tried to determine its effect on the prevalence of intoxication among fans and the extent to which it might impact on the impaired driving situation because of intoxicated fans driving home.

We studied the ball park prior to the introduction of beer and we are in the process of studying it after the introduction of beer. This is one small example of the kinds of things we do, but you asked for a specific one.

We have studied the impact of altering the drinking age, the age at which it is legally possible to purchase--

Mr. Mancini: You may recall I had quite a bit to do with that.

Mr. Popham: I am just giving you an example. You asked me what I meant by primary prevention research. I meant research that might relate to the sort of issue that was being raised by this gentleman; that is, to prevent the kind of family problem you are speaking of occurring in the first place.

The bulk of the research is aimed at treatment. For example, in the family you are speaking of, if there is an alcoholic father, is it not potentially of benefit to him if we are able to develop a relatively safe therapy, a drug which might arrest his alcoholic liver disease, which might lead to a stay of a few days in hospital instead of a few months and which might lengthen his life? That has come out of the research.

Mr. Mancini: The fact that you would look for the discovery of drugs which would, as you say, prevent further deterioration of the liver--is that what you said?

Mr. Popham: In effect, yes.

Mr. Mancini: I guess in good conscience no one could say that was not good work, but why are we doing that when we have all of these universities and all of these hospitals across North America which should be doing it?

Mr. Popham: The only way I can answer that is that the star, the genius who thought it up in the first place, happened to work for us. I suppose he could have been on a university staff, but he was not.

Dr. Marshman: May I ask Dr. Sellers to add another dimension to that response?

Dr. Sellers: I think your concern about duplication is a reasonable one. However, let me give you a perspective that comes by virtue of the sort of cadre of career scientists. They function, in fact, as if they are in universities. They are as academically aggressive. They are as career oriented. They want to do important things. They do not want to waste their time doing unimportant things. They want to do things that are original because they know from a scientific point of view and a personal point of view that is where the payoff is. Our organization, of course, expects them to work at the forefront.

Because of the reputations of the scientists who are at the foundation, they have managed to involve themselves in a very important scientific network. They are members of national scientific review panels. In my case, I am on the medical research council panel in pharmacology and toxicology and I am on the executive of a number of other national scientific organizations.

I know from my experience and from the experience of other scientists this is the way that one ensures there is no duplication occurring. In fact, in Canada the knowledge of what is being done in other centres is so intimate that if there is a possibility of duplication occurring we are more likely to enter into collaboration with that individual.

It does not usually happen because the strength of the foundation's scientific corps in the alcohol and drug field in Canada, and really worldwide, is such that most of the forefront work in one way or another is occurring in the context of the foundation. There is a uniqueness to the foundation environment. Also, the foundation scientists function in a way where duplication is not going to be rewarded, either by the organization or by yourself in the kinds of questions and the kinds of concerns you have. No one wants to see that happen.

I can honestly advise you that I am not aware of any areas of duplication, nor am I aware of any university settings in Canada in which the amount of effort and the productivity could be matched. There are individual situations where individual researchers in universities might make an important contribution and we try to set up effective liaisons with them.

The system is a little more open than the one you are imagining. The foundation is not functioning in isolation from the rest of the scientific world. In fact, I will put on a different

hat when I go to the medical research council and I then become aware of other research that is going on in Canada. I ask myself the same kind of question that you put to us. It is a good question. We are always concerned about making sure we are not duplicating efforts.

11:30 a.m.

Mr. Mancini: Maybe the problem is that the foundation is trying to be too many things and trying to do too much.

I have great difficulty in accepting some of this. For example, if you convince me that the research work you do is important, is not done by other individuals and will bring benefits to the general public, fine, that is one thing. However, when the foundation tries to become a community-based organization at the same time, and an informational base and an educational base for the schools and to help the police create a RIDE program, frankly I think you have your fingers into so many things you yourselves probably do not know in which direction you are going. That is what causes the confusion with the general public.

Doggone it, I am upset when the people in Windsor cannot get any money from the government to help enlarge their Alcoholics Anonymous program when it is one of the best in Canada. Their track record is outstanding. They can return alcoholics to their homes in a functioning way so that they go back to work and they stop drinking and driving. I am terribly upset when we cannot get money for that.

Then I come into committee and I see we spent \$26 million; fine, part of it is for research. The scientists here say it is good work, it is not duplicated. Fine, I accept that. Why are we wasting money on a poster festival, on a Dial-A-Fact service, on 30 offices across the province, and helping the police in Etobicoke create a RIDE program? Why are we not funnelling that money to the Salvation Army and to AA so that we can give direct assistance to alcoholics?

It is terribly frustrating for me when I run into people who are involved in the AA program and they say: "What is wrong with you people in the government? Here we are, we have all kinds of volunteers, they spend all kinds of time here, our facilities are not any good. The least you could do is make money available for our facilities if you do not want to make money available for anything else."

The people out on the streets doing the job for the families who are being destroyed by alcoholism seem to be the last group of people we are concerned with. That is why I have great difficulty accepting the role of the foundation.

Dr. Marshman: Mr. Chairman, may I respond? I understand a little better now where your concerns are based. The principal focus that you are coming from is a treatment services focus, with particular respect to a program in Windsor.

Mr. Mancini: And other programs across the province.

Dr. Marshman: Okay. I cannot speak to the Windsor situation specifically--

Mr. Mancini: But you should be able to speak to the Windsor situation.

Dr. Marshman: No, Mr. La Roque can speak to the Windsor situation.

Mr. Mancini: All right, maybe he can speak on it later.

Dr. Marshman: I will offer him an opportunity to do that. About 60 per cent of the money that we spend in the 29 centres across the province is directed to working with and through the communities, particularly the district health councils, in the planning of treatment services.

It is our understanding that the government has given to the district health councils responsibility for treatment services planning. As that relates to alcohol treatment services and drug treatment services, we have been working with them for about five years, working with them in needs assessment, working with them in developing plans for an economic system, for an effective system, for an efficient system.

The principle on which we are working is to make the best possible use of what already exists and then, having identified the gaps, to determine how the gaps can be closed. I cannot tell you what the current state of development in Essex county is with respect to the treatment facilities you are concerned about.

The foundation's move in the direction of working with and through the community in the development of treatment services rather than direct delivery started about 1969. It was done with the concurrence of the Ministry of Health and the Minister of Health of the day. It was pretty clear that the funding being provided at that time to the foundation was not adequate for the foundation to provide the services directly.

If you like, we can let Mr. La Rocque speak to the Windsor situation. However, I would like to make a subsequent comment.

Mr. La Rocque: Mr. Mancini, I think Dr. Marshman indicated a few minutes ago that we are not involved only in activities that have to do with direct treatment. I believe in the Windsor situation, for example, the work that has been done has been of substance. I would like to explain that.

You may be familiar with the SLAP program, the straight look at pot program, that was established primarily as a result of the efforts of one of our staff, Mr. John Zarebski. It was a program that was developed in collaboration with the board of education for the city of Windsor. They thought so highly of it they recommended Mr. Zarebski for the headmasters' award; that is, the headmasters' association in that area.

We view our responsibility as extending beyond involvement in direct service endeavours. One of the things that has been

revealed over the years is that the treatment system in Ontario is not as well co-ordinated as it should be.

In 1976, Dr. Macdonald established a task force on treatment services that was conducted by Dr. Marshman. That revealed there are some problems in co-ordination among various services and agencies. I am sure you are aware of this problem.

One of our efforts is directed at assisting in the co-ordination of these efforts, providing the tools to enable the agencies, for example, to do better assessment and early identification of people who have problems so that we are not in a position where we are constantly wanting to expand resources for the treatment of people who become damaged. We view it as our responsibility to become involved at an earlier point so that we can assist in early intervention.

For those purposes, we have established something we call the action plan of the foundation, which is a strategy that involves the development of what we call balanced treatment systems in Ontario. The province has been mapped out into 35 districts and we have done a careful examination of the needs in those 35 districts.

Mr. Mancini: What common need have you found across the 35 districts?

Mr. La Rocque: To give you an example, we found that there is a dearth of assessment and referral capability throughout Ontario. We have been addressing that over the past two and a half years.

Mr. Mancini: We have too much information; is that it?

Mr. La Rocque: No. I am not saying that. On the basis of the information that has been made available to us through our surveys and studies--as a matter of fact, we have managed to work with community groups in establishing 17 new assessment capabilities in various key locations in Ontario. That is crucial, because one of the problems in the treatment system is that people are not able to gain access to assessment to determine or to have professionals who work with addicted people determine the extent to which the problem has already occurred, the type of treatment planned that is appropriate for an individual and so on.

Beyond that, we have also developed instrumentation to assist agency personnel involved in doing assessment to do it well, to do it according to a standard format, so that they can make better treatment plans. We also provide training on an ongoing basis throughout Ontario to selected groups that are involved in doing this assessment. We have a very flexible capability. We can mount a training program within two or three weeks, if necessary, to assist agency personnel. That is clearly one of our--

Mr. Mancini: A training program for whom and for what?

Mr. La Rocque: A training program to train people who

work with addicted persons to do assessment in a better way, to understand their problems and to be able to refer them to an appropriate agency for treatment. One of the problems, as I mentioned--

11:40 a.m.

Mr. Mancini: What is the agency these people are usually referred to?

Mr. La Rocque: They are usually referred to assessment and referral services wherever they may exist. In the ones we had been trying to establish before that, it was very unclear where people should be referred for assessment because in many jurisdictions there were no assessment capabilities. That is one of the key objectives that we have, to ensure that people can gain access to assessment in order to identify the problem at an early point in the drinking process so that, again, we are not dealing with all these rehabilitation-type problems.

Dr. Marshman: If I understand Mr. Mancini's last question, it was directed more to where people are referred after their assessment. Is that correct?

Mr. Mancini: Yes.

Dr. Marshman: The answer is, it depends on what the problem profile looks like. It may have a medical dimension. If it does, then clearly they are going to be referred within the medical community. If it involves family dynamics as a major presenting problem, they may well be referred within the social services community. There is also usually some assessment made of the extent to which outpatient services as opposed to day treatment services are necessary. Perhaps key to all of that is the case management concept.

One of the problems we have faced is that over the years an individual in the community may almost treat the existing services as a kind of buffet. They may be involved with several different elements of service, none of which has any idea of what is going on elsewhere. Case management or primary care, if you like, has been the one common thread that has been seen as essential.

Some people have that common thread provided routinely by their family physician. Other people have not. The role of the primary care worker or case manager is to make sure that they are interacting with the services that are particularly appropriate to their needs and that they are making as efficient a use of the system as possible.

Mr. Mancini: There are a lot of nice titles and positions there in all these fancy words that you have used, but basically I see the situation this way: there is no reason, in my view, why in schools today there cannot be an aggressive and well-thought-out program of educating young children about the effects of alcohol and drug abuse on a prolonged and sustained basis so that by the time they are in grade 9 or grade 10 they know a good deal about alcohol and drugs. That is number one.

That could be done through the Ministry of Education. It could be done with funds from the Ministry of Health, because ultimately it saves funds there, and other government agencies could be brought in. In my view, it could be done much more efficiently than you are proposing or what you are already trying to do, because you get at everybody.

Dr. Marshman: May I interject for just a moment?

Mr. Mancini: Certainly.

Dr. Marshman: We wholeheartedly agree with you on the need for instruction. Some of us would take it as low as kindergarten and officially we are committed to K through 13, or 12 as it may come to be the end of the line in the secondary school system, in the sense of drug-alcohol education.

The fact that our efforts in that direction are on the rails, our smoking program is directed to ages six to nine, so we are not quite at K but we are at grade 1, and the current alcohol and cannabis programs are in the higher grades at this point, but the intention is to cover the entire range. The fact that they have been developed with representation from the Ministry of Education and the Ministry of Health and representation from the teaching community and the fact that we intend to back them up with teacher training means that we, too, see that the school system is the place in which they can be best used for maximum effect.

Teacher training is part of the professional training agenda we have before us. The fact is that it is a collaborative effort. We are not functioning in isolation, if you like, from the rest of the system.

Mr. Mancini: Just one more moment and I will give the floor back to the committee.

The second area where I see we could probably be spending our money more wisely is in more direct assistance to people, such as the group in Windsor, who are treating alcoholics. Once the educational system is not able to convince them of the tremendous problems that are caused by alcohol and drug abuse, and when these people fall through the cracks because of social or economic problems and they end up becoming alcoholics, we need to have money available to treat them when they are ready to be treated.

All of us know that you cannot treat an alcoholic until he or she is ready, but once that person has finally committed himself to be treated we need to have the facilities in place at the local level where they can be directed immediately. To have one agency direct a person to another agency then to another agency for assessment and further assessment, by the time the person gets down to the line of actual treatment, first, there is no money available to give the person the treatment and, second, the individual has not been helped.

The problems come to the surface only when the drug abuser is at the point where he or she cannot function any more. They may

go into crime or they may become violent and disrupt the family in that scenario.

What I am saying is educate the students as best you can. Use the money in the schools. Use the system that is already in place. Do not create another bureaucracy. If that fails, then have the money ready for good local treatment so that you do not have good people, such as you have in Windsor, scrambling all over the place because they want to treat alcoholics and there is nobody else who will treat them.

We do not need an alcoholic assessed. What we need is treatment. It is a shame that people in local areas--I do not know what the situation is in Chatham but I am sure there is an organized group there that is treating drug and alcohol abusers. I am not sure if they are happy with the support they are getting but I know in my area they are not happy and I am not happy when I see millions of dollars spent by an agency such as yours and I am not so sure that the people who need the help are getting it.

This is all nicely referred from one agency to another and I guess that is nice and neat and it works well on a flow chart, but it does not do anything for the alcoholic or the alcoholic's family. Those are my concerns.

Dr. Marshman: I think probably the semantics have played a role in your response to the comments that have been made. The notion of referring and referring and referring is not inherent in the system. The point is, first, you seem to be coming from a position that suggests that inpatient treatment is where it is at. The research evidence does not support that position--

Mr. Mancini: I said education first.

Dr. Marshman: --as being the cornerstone of the system. I agree with you on education.

Mr. Mancini: Consistent and prolonged, and then treatment.

Dr. Marshman: Yes. We agree with you wholeheartedly on the education score. We also agree that it is important that people who have alcohol and drug problems have access to services for the treatment of those problems. That is different from saying that a particular form of treatment is essential to the process.

It may well be that in the community of Windsor the program of which you speak is essential to the functioning of a system of treatment services there. What we do know is that there are a lot of people who see hospitalization for a sustained period of time as being the answer, the high-quality alcohol treatment services to which they feel they should have access.

11:50 a.m.

There is no putting down the desirability of high-quality services but that does not equate to inpatient services. According to the treatment research literature there is good evidence that

there are many people who have as successful an outcome of their alcohol problems from outpatient services or day treatment services as from inpatient.

I would suggest that the district health council has a responsibility for the planning of treatment services and the foundation feeds its best advice, its knowledge of the treatment research literature, the treatment process and the community into that process and, where there are gaps in the treatment service system, is prepared to support the local case when those gaps can be identified and supported according to objective criteria. We agree that the need for access to high-quality services is essential.

I would like to come back to a couple of other comments, if I might, which relate to the series of questions Mr. Mancini has raised. First of all, when it comes to the question of research and whether or not we duplicate effort, there are two essential points that should be made. One is the fact that many of the foundation scientists are cross-appointed to Ontario's universities, many at the rank of full professor in their respective departments or faculties, so that they are not functioning in isolation from the university system. Several of us in this room hold cross-appointments. That means the research we are doing is brought to bear on the post-secondary school training system.

The second point I would like to make, just for clarification, although I suspect it is in your briefing document, is that the foundation's research has been subject on a quinquennial basis to external research audit and the external auditors are not appointed by the foundation but are appointed by the Ministry of Health on the recommendation of the Ontario Council of Health. Last time the auditors were entirely from outside Canada so they were not part of our Canadian system, if you like.

The external reviews have been very positive and I think you do have in your briefing document the quotation from the last audit which says, "With a relatively modest budget, it," the foundation, "has consistently conducted high-quality investigations, many of them in breakthrough areas, and has attracted scientists of high rank to a field of study not noted for its glamour. ARF is the premier addictions research organization in the world today." What that says, among other things, is that our peers external to Canada have identified the fact that our work is in breakthrough areas and is not duplication of work that is going on elsewhere.

The third point I would like to make relates to the question which was raised by Mr. Mancini explicitly and that is, effectively, if we are doing so many things, how do we manage to know what we are doing, or something to that effect. It is quite true that when one is involved in this range of services, the community-based system, the education programming, the operation of the teaching hospital and an in-house research program, it takes a lot of concerted management effort, not to make sure that they do not collide with each other but to make sure that the

benefits of each one enhance the other effort.

From my point of view as a manager, the research effort in its various forms is essential, it is essential to the provision of treatment services and that is sort of fundamental to the teaching hospital concept. It is essential to the development of educational materials that are consistent with our very best knowledge base and that stand the test of user acceptance. So educational materials are subject to, if you want, research in their development and then testing after the fact before they are put out to the larger community to make sure that they are going to enhance knowledge on the part of the target audience, the kids in the school system, and help them develop more positive attitudes.

We have had both those kinds of findings with our school material so far. It is very easy to disseminate materials. It is quite a different thing to have evidence that they are having an impact at one level or another.

The other point I would raise is that when one gets to research in the community, and I am thinking particularly of evaluation research, is the system or the service that is out there having a positive impact? That becomes a very difficult thing to manage. I think the people of Ontario would like the best value for their dollar invested in treatment services and we are working with communities to gauge an evaluation of the services that are in place.

This does become a difficult thing for communities to deal with because they see a negative result in a little bit different way than a scientist does. A scientist sees a negative result as a stimulus to pursue another direction; the community, particularly the people involved in delivery of treatment services, sees some difficulties with negative findings in that regard.

The final point I would make is that we strive very hard to ensure that we have adequate dialogue and involvement in a cross-programmatic sense so that the benefits of the thinking of all three or four of our programming aspects are brought to bear on any given problem.

The Vice-Chairman: Mr. Breagh is next on my list. Do you want to start now or at two o'clock?

Mr. Breagh: Perhaps it would be better if we started at two.

The Vice-Chairman: Is everybody in agreement?

Mr. Lupusella: Mr. Chairman, I will raise my question now. It is a short one.

Mr. Breagh: If somebody has what we call in the trade a quickie, let him get it on.

The Vice-Chairman: We will give you a quickie provided you give the chairman the authority to cut you off if it turns out

not to be thus.

Mr. Breaugh: If you need to ask for the authority, you are never going to get it.

Mr. Lupusella: I am concerned about the law enforcement process in relation to tobacco and I am particularly concerned about the Tobacco Restraint Act and the Minors' Protection Act. Are you aware of these two acts?

Dr. Marshman: Would you repeat the name of the first one, please?

Mr. Lupusella: The Tobacco Restraint Act. It says, "In Canada, possession or use of tobacco products in public places by anyone under 16 years is an offence under the Tobacco Restraint Act." There is a fine of \$1 for the first offence and if there is a subsequent contravention a fine of \$4 and police are obliged to confiscate the smoking materials.

The other one is the Minors' Protection Act. Do you think those two acts should be revised and updated? Did you make any particular recommendation to the government to change these two acts, and in which way? Considering that 79 per cent of the total student population is smoking in schools and smoking marijuana as well, and we are faced with the political environment of decriminalization of marijuana, what has your agency been doing in relation to the principle of marijuana being decriminalized? Did you make recommendations to the government to change the Minors' Protection Act?

Dr. Marshman: To the best of my knowledge, Mr. Chairman, the foundation has never made representation to the government on the Tobacco Restraint Act or the Minors' Protection Act. We would certainly be prepared to do so if you wish to have our advice on those matters.

I believe the other question related to what our position on cannabis is. I think our position is quite clear and has been made public through a document of which several hundred thousand copies have circulated in the province. We strongly advise that cannabis not be used, on the basis of our assessment of the potential health consequences of its use.

12 noon

On the matter of changing legislation, I have two comments. One, we have provided considerable consultation to the Attorney General of Ontario (Mr. McMurtry) in relation to some proposed federal legislative changes over a period of two or three years. As an organization, we do not endorse any of the changes which have been proposed, to the best of our knowledge--that is, any that have come to our attention--because we feel that with each of the proposed changes we are aware of there is a risk that the consumption of cannabis will increase. If we recognize the public health risk in the smoking of cannabis, we feel that from a public health perspective we cannot endorse any of the proposed directions for change of which we are aware.

Mr. Lupusella: I knew that you were opposing the legislation and there was no doubt in my mind, but I do not see any aggressive role from your foundation to counteract the legislation which might be changed in the near future. I do not see the kind of aggressiveness which enters into the scope and the role of your foundation. I would like you to get more involved, be more active and play a major role, especially when certain issues are going to undermine the principle of your existence.

Dr. Marshman: Taking a higher profile has begun in terms of a more extensive and more effective use of the media. In the future you will see a somewhat higher profile. However, on all issues we have to take whatever we see as being the most cost-effective course of action, and it was our view that consultation with the Attorney General which would be taken into account in the government's consultation with the federal government was the most effective way to address the cannabis legislation issue.

As I indicated, we have made no secret and in fact have gone out of our way, including in that most recent booklet on cannabis, to make clear our position on the issue. There are several hundred thousand copies of that new one as well as the original one being distributed throughout the province. In terms of radio and TV messages, no, we have not cut a high profile on the subject of the legislation. However, in terms of both input to government and spreading the message in the community through our own print, video and audio materials, the answer is yes.

Mr. Lupusella: If I were to compare Pollution Probe as an organization with your organization, it has more profile than yours and I am quite surprised.

The Vice-Chairman: Let us break until two o'clock.

The committee recessed at 12:02 p.m.

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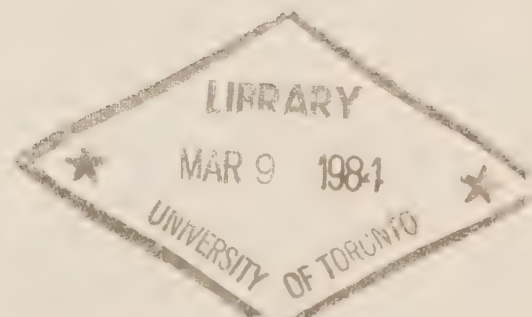
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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
ALCOHOLISM AND DRUG ADDICTION RESEARCH FOUNDATION
ONTARIO EDUCATIONAL SERVICES CORP.

TUESDAY, FEBRUARY 21, 1984

Afternoon sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Hennessy, M. (Fort William PC)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Lupusella, A. (Dovercourt NDP)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Sheppard, H. N. (Northumberland PC)

Clerk pro tem: White, G.

Staff:

Eichmanis, J., Researcher, Legislative Library

Witnesses:

From the Alcoholism and Drug Addiction Research Foundation:
La Rocque, J. C., Director, Regional Programs Division
Macdonald, Dr. J. B., Chairman
Marshman, Dr. J. A., President
Popham, R. E., Director, Social and Biological Studies Division
Sellers, Dr. E. M., Director, Clinical Institute Division

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Tuesday, February 21, 1984

The committee resumed at 2:09 p.m. in room 228.

ALCOHOLISM AND DRUG ADDICTION RESEARCH FOUNDATION
(continued)

Mr. Chairman: Gentlemen, seeing a quorum with all three parties, shall we continue? We will pick up with Mr. Breaugh.

Mr. Breaugh: The last time the witnesses were here, we had a fair amount of discussion about exactly what was the role of the Addiction Research Foundation. I do not think it is unfair to say that at that time we had a lot of discussion around direction. Why was there a thing called the Addiction Research Foundation? Just exactly what did it do? What was its job? It is not unfair to say we felt there was some confusion about that. Certainly, different expectations were laid on the foundation by members of the committee, and that is probably a reflection of the population at large.

You have had a number of studies since then by Dr. Solandt, internal discussions and so on, to attempt to redefine that. You have something now called an action plan, which intrigues me no end. I wonder if I can get you to go through that process and tell us where you have arrived in the process and whether you think you have come to a point where you are clear on what you want to do and where others around you in the community, in the ministries and in the population at large feel relatively comfortable with the role you have arrived at.

Dr. Marshman: You have bitten off a big section. I will address what I can initially and I hope you will let me know if I have left out some elements of what you are after.

Mr. Breaugh: I will be glad to.

Dr. Marshman: It is fair to say that when the foundation reviewed its goal statements and set out to develop revised or updated goal statements, it started right back at square one with the legislation. In addition to the legislation, it took a look at the kinds of resources available, the kind of expertise available, the opportunities available, and who else is doing what in the community. By that, I mean not only the people who have their base at the community level, but what other ministries are doing as well.

We are clearly operating within the three major areas that are laid out in the statute, that is, prevention, treatment and rehabilitation, and research, which can include treatment research. One thing that became clear was the need for research. That role is not being played to any significant extent by other forces, and it is a responsibility we have.

It was a question of focusing on a couple of planes. One is the kind of substances we should be giving emphasis to. We looked at that primarily from the point of view of the substances that are most prevalently used and the potential negative impact on individuals of their use. That is how we came up with a particular emphasis on alcohol, tobacco, cannabis and minor tranquillizers basically. The balance shifts a bit from time to time. There are two levels of research or two distinct kinds of research, one being what we think of as program development research and the other being treatment research.

Program development research is rather an internal term, so it is probably worth my commenting on it. Program development research, to us, includes research into education programs, research into drinking-driving and research into employee assistance or work site kinds of programs. In other words, it is the development of new or improved approaches based on the knowledge we have, testing them in a real world situation, evaluating them and then using them as a basis from which our community-directed programming and our education programming take off. It is, if you like, making the best possible balls we can to let the community get involved in throwing them, in response to specific community needs and opportunities.

There is an analogous scene in education. There are certain age groups, certain at risk groups and certain substances that deserve particular attention within the province. We feel the best use of the resources we have available is to develop programs that will meet what we perceive those needs to be, but rather than delivering them all directly and independently, working through the existing community structures.

One of the reasons we have adopted a participatory process in the development of our education programs is we feel it is important to find out where the Ministry of Health and the Ministry of Education are coming from, the thinking of the teachers' groups in this area, as well as the thinking of our own people, both scientists and those in the community. What we are developing is appropriate and something to which they can become committed in the dissemination. I think it quite an inappropriate for us to attempt to deliver this kind of education to every class in every school in the province directly through our own personnel.

As far as the treatment service delivery is concerned, there are a number of analogous factors which come into play. We recognize there is a sort of tradition around treatment service in this province, just as there is in other provinces. We recognize the cornerstone in this province has been inpatient hospital-based treatment. In developing a package of advice about the future directions for service development, taking into account current knowledge, we felt we were offering the Ministry of Health our best advice. We are also offering the district health councils that same kind of advice and we are working with them to try to bring what we know to bear on the planning process.

It is fair to say that increasingly in the research area, the treatment service area and in the education area, we are

reaching out, linking in with the other groups in both government and nongovernment groups in communities in Ontario that have a commitment, expertise or a mandate that is in some way complementary to our own.

Within the research area, we have been in discussion with several ministries around certain issues. An example of this is the rehabilitation program for persons convicted of drinking and driving to determine if we can develop and test alternative approaches in conjunction with those of the Ministry of Correctional Services that are currently being used.

When we are looking at those kinds of treatment service programs, we are really looking to the principle that we have to look at economy, we have to look at effectiveness and we have to look at efficiency. Many of those programs are directed to cost reduction in some sense, maintaining or enhancing effectiveness, increasing efficiency, while at the same time keeping the lid on the cost of doing business. I think it is fair to say those other people, those other forces in the community and their positions are being taken into account at the beginning in the program development in which we are engaging.

Mr. Breaugh: Okay. Let me pick up on a couple of other related areas. Much of what you do runs directly into all of those weird and wonderful linkages that are out there to a problem which creates another problem which we are just beginning to solve. Let me give you one example which I suspect is fairly common. We are now beginning to report instances of child abuse regularly, whereas before that was kind of taboo. Nobody really wanted to pick up on that. In my area the number of cases reported was up about 90 per cent. It is an astronomical number.

2:20 p.m.

As soon as we get involved in this area, we understand that at the heart of a lot of that problem is some kind of substance abuse--drugs, alcohol, whatever. We can get that far, but we do not know where to put the women and the kids. We do not have a shelter on stream yet, although in my area, for example, kind of quasi-private-public groups--the social planning council kind of thing--take on some of that and say, "We need a home for battered women and kids to get them out of that situation."

After about two years we have a name for it and we have some funding for it. We have a location now and probably within another six months to a year we will actually have that. If it is the male who has the alcohol problem, my hospital, Oshawa General Hospital, now has a place for him called Pinewood Centre, but if it turns out to be a woman who has the alcohol problem there is no place for her to go yet.

The linkages are obvious between a group studying an addiction problem--for example, a police force, and teachers and social agencies reporting a social problem--and then trying to work our way through to solutions. It is an awkward process at best.

A couple of other examples spring to mind. I have a place called Destiny Manor Recovery House for Women, which is a home for women coming out of detox centres. Funding for that is extremely tenuous. It was built on the premise initially of a kind of government "do good work for a little while in your area" program, supplemented subsequently by arrangements with various ministries to do some contract work under set conditions, which sometimes change the nature of the project itself. The linkages are there, but they are indirect. The financing is there sometimes, but it is certainly not direct.

Are there things you can do which will, in the first instance, establish that the linkages are more than somebody's imagination? Can you make some recommendations which might show this is an integrated problem, not one which can be isolated, and so the solutions including financial solutions have to be integrated?

I really am fed up with people saying, "If she is a drunk I can help her, but if she is a drunk who beats up her kids I cannot do anything for her," or, "If the guy is just an alcoholic and he is not prepared to admit it, there is nothing we can do for that person," despite the fact the wife and kids in the house are continually battered.

It is not good enough for me any more to say these are all social ills which will be met head on by some group that works after work. After they have done a full day's shift at the motors, they are then expected to go out and function for Alcoholics Anonymous from eight o'clock at night until eight o'clock the next morning. We need something a little more concrete than that.

What I have tried to present is a raft of linked problems. Some of the more specific ones are staffing and financing.

Finally, I want to throw this one at you. I have a growing concern now. It is hard to put this delicately, so I will not. There are a number of people who have really good intentions, who have had a problem with addiction of some kind and who want to do something that prevents others from falling into that same trap, whether it is booze or drugs.

Their credentials seem to be that they have been drug addicts or alcoholics, and it seems okay and acceptable. I am not sure it is okay to say, "Because I have been a drunk, I am an expert on alcoholism and I can set up a treatment facility," or, "Because I have been a drug addict, I am an expert on drugs and I can set up some drug treatment program." I am growing increasingly uncomfortable with that concept.

Mr. Mancini brought out AA this morning. I want to say there was a bedrock foundation there which seemed rational and sensible, but it is moving into areas where I feel it has lost its expertise and needs some help.

I am concerned because of several things. First, it is often the only group of people prepared even to take on the problem.

That bothers me. Secondly, I see them getting into areas where they just cannot handle it. They are the only game in town, so there is no alternative. Let me hear your comments on trying to get through that maze of things.

Dr. Marshman: Can I take the last one first, your reference to Alcoholics Anonymous. From our point of view, I think it is fair to say that we, both in principle and practice, recognize Alcoholics Anonymous and its program as complementary to something that is done by professionals.

It is certainly not adversarial. In fact, I think I am correct in saying the largest AA group in Ontario meets in the clinical institute's building at 33 Russell Street. We make all patients aware of AA's existence and encourage them at least to try out the AA program if they are inpatients with us.

It is sometimes the only group prepared to take action on the problem. I think I am also correct in saying, at least when one thinks about the health planning sector, that every district health council in the province has been lobbied--would it be fair to say that, Mr. La Rocque?--by our staff to get them to recognize that alcoholism treatment services are an important aspect of health care services and they ought to make it their business to address what the needs are, to what extent they are being met and how they are being met.

As you know, district health councils have been developing over quite a period of time; some of them are much more highly developed than others. Particularly a few years ago, in cases where we were not able to deal with the district health council we were dealing with local citizens' councils, local citizens' coalitions or concerned citizens' groups in the alcohol field.

I think you are quite right to say that Alcoholics Anonymous members play a large role in those. They are among the people most committed to the principle of services and service availability.

I also think I am right in saying that increasingly we can say there is a presence of health care planning on the official agenda of most areas of the province. For some it has a higher priority than for others, and that is partly a response to perceived local needs and who are the most vigorous advocates for a particular problem area.

One of the things I know some district health councils are doing is embarking on a determination of the major causes of morbidity and mortality and then looking at the extent to which the services in their area--not only treatment but prevention--are appropriate to addressing those major causes of morbidity and mortality, and they are coming to the conclusion that alcohol and tobacco are playing major roles.

I think the situation you have described is one that I would have said existed seven or eight years ago. I suspect it is decreasing in its accuracy as a description of what is going on in all parts of Ontario, but I agree that there are parts in which it is certainly the case.

With regard to the extent to which people with an Alcoholics Anonymous background are involved in treatment service delivery, I would offer two comments. One is that certainly we have AA members on our staff, selected not because of their AA background but because they have knowledge and skills that we see as essential to our programming.

I think I am correct in saying that we have no way of knowing, unless they volunteer the information, whether they have a history of alcoholism. It is quite true that in some treatment settings a person who can relate a personal history becomes a somewhat more relevant interventionist than someone who is speaking from the textbook, so to speak.

We see them as a complement, basically, and to the extent that they are engaged as the sole factor in the management and staffing of a program, I would say they should be judged on the basis of their knowledge and their skills and not on the basis of whether they had come from an AA background or not. If they fail on the basis of knowledge and skills, then I think some remedial action should be taken.

Dr. Macdonald: May I make a comment about this before we leave the subject?

What you are really asking, Mr. Breugh, is whether a history of being an alcoholic is a qualification for being a specialist in treatment. People who have an alcohol problem generally have a constellation of problems, one of which is that they are drinking too much.

There are a variety of ways of going about persuading people not to drink too much, and certainly over much of the western world, and perhaps even in the eastern bloc, Alcoholics Anonymous has had a pretty high level of success in persuading people not to drink too much. Not to drink at all is generally the approach they take, and they have had a lot of success there.

2:30 p.m.

There are other ways of doing it. There is behaviour modification and various psychological methods which are used and they are more or less effective. But I do not think there is anything wrong with any approach to helping people to not drink, if that is one of their problems, that works.

It is the constellation of other problems that really gives difficulty. Those people may have, as you yourself pointed out, a family breakdown problem, they may have brutality in the family, they may have job problems, they are likely to have medical problems or psychiatric problems, financial problems or problems with the law. In none of those areas is it likely that the Alcoholics Anonymous people have the kinds of skills that are necessary. The whole point of the action plan is to make sure, through an assessment and referral system, that these people are referred to the kind of organization, which we have in abundance around this province, which is qualified to deal with the particular problem they have, not just the alcohol problem.

If it is a family breakdown problem, they need people who are competent to deal with family breakdown. If it is a medical problem, then they have to see a physician or perhaps go to hospital. Those referrals to those specialized skills, which are generally professional, are critical if there is going to be long-term success. Whether or not one wants to argue that those problems are the cause of the alcoholism or the result of the alcoholism, does not make any difference. You have to stop the drinking and you have to deal with that set of problems.

Mr. Breaugh: In my area, and I suspect it is not much different from many others, if you are a male alcoholic I can find you a place; if you are a female alcoholic, I cannot. The irony is that for a variety of reasons more and more women are admitting that they have a problem with alcohol. I guess my area is fairly typical. I have a place where, if you have been to a detoxification centre and you are a woman, I can get you in there, and it is a very good place.

Even with the men, where I have a detox centre it is so full that often what we are talking about is taking guys out of Oshawa and sending them to Buffalo, because they need help now. Unfortunately, alcoholics do not always come to see the light at the appropriate moment. Sometimes they do that awkwardly, when your detox centre is full. When there is some other tragedy that is attached to it, they do not understand that they are supposed to make the decision to stop drinking at an appropriate hour when there is an available bed. We have not quite got it to that stage yet.

So these linked problems are in here. For example, your field workers with district health councils should be able to identify not only the need but also some of the solutions. That is where I see the process grinding to a halt.

It is not difficult any more to identify needs in a community, but to try to find the financing for a centre for battered women or a detox centre means you have to go to your local hospital and compete with everybody else in that hospital with a shrinking budget to set up what is in their eyes a new unit. No one denies the problem, but it is simply a financial matter. We are getting more expertise in developing head counts and, sad to say, less expertise in developing financing to do anything about it.

Dr. Macdonald: We have had a wish for some time to see the development and application of standards that will determine eligibility for a detox centre in the community which would apply to women as well as men. That is something which was supported in the Solandt-Warwick report and it is something that in our view would help to solve the problem.

There has been a certain amount of ad hockery or response to the squeaky wheel in determining where these things have been located. That does not seem like a very sound basis of policy. But one of the problems government faces is that if you establish a set of standards, this may involve increased expenditures for establishing new places where they meet the criteria. There is a

financial problem, which I accept is a real problem for the government. I do believe the establishment of standards--and we are certainly ready and prepared to advise on what those standards ought to be--would be a step in the right direction.

Mr. Breaugh: Let me take you through the area of costs. It was mentioned this morning that \$26 million is a lot of money, and I agree it is a lot of money. It would take the liquor stores about three weeks to bring in that kind of revenue to the province.

I might even advocate an even split. Six months of the year we collect the money from the Liquor Control Board of Ontario and six months of the year we pay it out through addiction research and hospitals and everywhere else to resolve some of the problems we caused in the first six months.

We have to recognize a fact here. In the budget of a province like Ontario--and it is no different from any other--the sale of booze, the sale of cigarettes, the newest craze in addiction, lotteries, and the one that is just around the corner, that is, hookers, because we have had the first official-looking reports on how the government might licence, regulate and profit by prostitution, all those fun things are now on the hit list of governments as prime sources of revenue. They are really good forms of taxation, because people seem to like them, for some reason. They have been around long enough that they are probably not going to go away.

Are we really doing very much in addressing ourselves to the costs that are there? We are now at the point where the costs of something like an addiction research foundation seem rather minor. If you lumped that cost up against the Ontario Lottery Corp. budget, cheek by jowl, it would not be a pimple on the cheek in terms of the revenue that comes in from that. If you lumped it up against the money that comes in from the sale of booze by the LCBO--never mind the hotels, the Brewers' Retail stores, the ball park and everywhere else--you would have to draw out the decimal points there and get out a little calculator to find out what percentage of the LCBO budget goes in here. There is no direct link between the one and the other.

It seems to me, in a number of ways, in the work you do in the field and the work you do in prevention, the old cost element enters the picture a lot. What would it take to make a full frontal attack on just one of the problems?

Let me pick one for you--alcohol. It is the substance it is not unreasonable to say we know the most about. It is such a safe substance that governments are hot into selling it, and the public perception is: "If the government sells it to me, it really can't be such a bad thing. Don't they bar pesticides and poisons and what I can spray into my dishpan and kill bugs with? So if the government sells me a bottle of rye, it cannot be all that bad."

How much money would it take for an agency such as yours to do all the things we have just laid out in a full frontal attack on booze?

Dr. Marshman: I do not think anybody has offered us the opportunity to come up with anything before.

Mr. Breaugh: Here you go. I want to point out I have paid for most of this frontal attack already, so do not spare it.

Dr. Marshman: I do not have a number in my head at this point. Perhaps my colleagues can develop one on the spur of the moment.

It is important for me to tell you it depends on whether you want to redirect any money or whether you simply want to add in. In other words, if you want to take the expenses currently directed through the hospital system, for example, through family physicians, through family service agencies, those kinds of facilities, we have never calculated a figure of what it would take to do an all-out frontal attack.

We have worked on the assumption there is no new money to be put into the system in significant amounts. We have to do an awful lot of redirecting, a lot of arm-twisting, to get co-ordination of what is already there. Perhaps one of my colleagues has been dreaming in areas I have not.

2:40 p.m.

Dr. Macdonald: I think you are asking a very interesting question, Mr. Breaugh, but I wonder whether it is the right question. I wonder if it is really possible to solve the problem by a frontal attack, or whether the most any western society can hope to do is contain the problem.

In this country, and in the United States, we have the history of a frontal attack, which said we would have prohibition. That did not work. There is a lesson to be learned in that. People are going to drink. As long as people are going to drink, there will be distribution and consumption and some people at the upper end, whether or not they are called alcoholics, are going to be drinking at hazardous levels.

It seems to me that what we want and need to do is teach and inform our citizens to the point where they are willing as a society to adopt healthy lifestyles and avoid those things which are damaging, which include consumption of too much alcohol.

By spending substantially more money than we do, perhaps in the order of the amount of money which is spent by the alcohol industry on promotion, and using the same kind of television technique to attempt to change lifestyle, my guess is we probably could have a very significant impact, although I think it would not happen very quickly. I say that because we do have the example of tobacco where the situation is a little bit different.

Any level of consumption or abuse of tobacco carries risk with it. That is not true with alcohol. Modest consumption levels of alcohol do not appear to carry risk. In the case of tobacco, where we have known now for 35 years there are serious health consequences from its use, it has taken us that long to begin to

see an impact on the behaviour of our people. There is a change. Certain groups are smoking very much less. Physicians, for example, smoke very much less than they did 10 or 15 years ago.

Some groups are smoking more, but there is a gradual change, and I think that is the result of a gradual increase in public awareness that people are not doing themselves any good.

Mr. Breaugh: The tobacco thing is very dramatic, whether you are looking at numbers or you are comparing your own family. In my family, my three kids are just the most adamant antismoking, obnoxious little things you ever saw in your life. They do not have much of an impact on me, but clearly the generational change has brought about an entirely different attitude.

Even in terms of alcohol, I think it is now rare to go to a party where at least you feel the host is trying to get you absolutely plastered. In fact, now you see some overt signs that people who are giving parties for their friends take some care that no one gets plastered. There is lots of food around. There are alternatives to that. There is an awareness, and the smoking or tobacco campaigns have been remarkably successful and probably could be even more so.

I want to get back to the cost aspect, because one of the things which bothers me immensely is that \$26 million is a lot of money. I do not argue with that at all. It would build a modest arena or a pretty good library. It would build the end bleachers for a domed stadium. It would get you from here to Cobourg on the Urban Transportation Development Corp. It might get you as far as Trenton on Highway 401. These are all things which governments think are very appropriate ways to spend public money.

I am getting around to the point that at some time we are going to start to add up the costs of not doing anything and say, "You know, it would be cheaper to make people a little more aware of problems with alcohol, drugs and tobacco and things like that," and to go at it before they go through all this carnage system.

Once you have the drunk lying on the street, everybody says: "Boy, there is a real problem. We ought to do something about that." It would have been nice if 30 years previously someone had said, "Maybe we ought to do something with this guy to see he does not become the drunk on the street."

I want to leave that and go to a couple of other areas.

Dr. Macdonald: Before you do, Mr. Breaugh, could I just say that it is the view of the members of the foundation that the reductions in the level of our funding over the last several years have reached a point where they hurt. I think we are unanimous in agreeing with the view expressed by Solandt and Warwick that we have reached a point that is probably too low. We believe that in a more ideal world, we could certainly use a greater amount of funding effectively.

For example, if we were to be offered a doubling in our funding--a pretty hypothetical proposition--the choice would be to

put it primarily into educational activities. In the long run that would probably have the greatest preventive effect.

Mr. Breaugh: I am just attempting to get this cost factor into what I consider a reasonable perspective. I do not think we have it there by a long shot. It is a lot of money and I think we can all admit to past sins about research facilities--yours and others that have done some silly or nonproductive things or did not use their money in the wisest way. However, we can still turn around and point the finger at governments that spend money stupidly--far larger amounts than this for far lesser problems. So I just want to get that into perspective.

I think you know I am a fan of the things the Addiction Research Foundation has done over the years. As a fan, I want to turn my attention to a couple of things that bug me no end--as a matter of fact I believe I mentioned this when you were here in 1978. You still continue to put out press releases which make me grit my teeth.

As I read them, nowhere does it say the Addiction Research Foundation lies, distorts, cheats or does any of those evil things. But by now you must be aware when you put out a survey that says something like 90 per cent of the kids in school drink, that is how it is going to be reported. Your wording and your press release is very clear. When I read it again today for about the third time, you did not say anything that was unreal.

You did admit there were some problems with surveys. I think you even came close to admitting that if you ask kids coming out of the locker room after a hockey game if they had sex last night every single boy is going to say, "Did we ever." If you ask kids in a schoolyard, "Have you ever tried alcoholic beverages?" I think they are going to say yes. I think if you ask them just about anything about which they have the faintest knowledge, the tendency is to say yes.

We discussed this before and I thought we came to some agreement that this kind of survey technique is not exactly the most accurate way to assess how many young people are drinking, smoking, using pot, whatever.

I want to try to get the problem as precise as I can. I think there is a serious problem with alcohol, tobacco and a number of other drugs in our school-age children and in kids who are just out of school. But when you put out reports like this, while you do not use distorted numbers, a distorted impression is left. In the background material you provide with your press release I think you do identify the survey techniques which are used. People who work in your field would be able to provide a reasonable interpretation of the accuracy--I believe the term you would use is that there is a "variance" at work.

2:50 p.m.

So that statistic used in the everyday work environment of addiction research is understood in a certain way. But you must understand by now that when you put it out in that form, by the

time the newspapers write about it and the home and school associations get hold of it, everybody will be barking and screaming over a number which in my view is distorted. It was collected by a sampling technique that is not exactly the most accurate in the world.

Then you get school principals who are going to say, "Maybe 90 per cent of the kids are drinking, but not in my school," or guys who work with drug problem kids in school saying: "Well, gee, the Alcoholism and Drug Addiction Research Foundation down there says kids are into cocaine and heroin. I've been working here for six years and I have never seen any of this. Either I am blind or they know some wonderful thing I do not know."

I really want to make a pitch for you to address yourself to this problem when you put out a number. I would really suggest it is irrelevant whether 90 per cent of the kids who are going to school today had a drink this year. In my family it is not the custom to drink wine with meals but in many families it is, so if you ask that kid on the school ground, "Did you drink any alcoholic beverages this year?" the answer would most certainly be that he did.

That is an irrelevant statistic in my view and I think I could mount a not bad argument that it is not just irrelevant from a scientific point of view, but very damaging from attempting to get at social problem point of view. I want you to admonish me for being unfair or to do something which tells me that I am wrong.

To summarize: I know there is a serious problem in the schools in my constituency, but you sure as hell do not help us one whit by putting out that kind of number for the people who work with the kids in the schools, either teachers or counsellors, who are put in the extremely awkward position of having to say, "Well, I quote the addition research foundation for this and this and this, and I believe their research to be solid empirical stuff, but I have to tell you, I never saw any of that in my school."

So we are caught, hung on a hook that if we believe the information you put out on smoking or drinking or the use of marijuana, or anything else, if we are to believe that is pretty solid, the one time in the year when you put out the old headline getter, it really hangs us out to dry.

Dr. Marshman: I think Mr. Popham could best respond to the specific of the release of survey information, but before he does I would like to make a couple of comments.

Mr. Breaugh: Sure, I knew you would.

Dr. Marshman: First, you are right in saying there was background information attached to the press release, and also, for the first time in the school survey history, we offered the press an opportunity to engage in questions and answers with the researcher who was responsible for the execution of the survey so as to get behind the scene and to get some of this information out.

In both those documents, I think in the background information and in the press conference discussion, there were two things the foundation made every effort to emphasize. One is the trends in use, in other words putting a focus not so much on the absolute numbers as they are seen in today's study, but in looking at the trends over the last four surveys.

The second point is looking at the frequency of use. In other words, it is one thing to say that 24, 25 or 29 per cent of young people used cannabis in the last year, but when you start talking about 4.6 per cent using it 40 or more times in the last year, those are two different kinds of numbers with two different kinds of implications for us.

You are right in saying researchers automatically include the big number within that total, all of the people who tried something once in an experimental sense and have not tried it again, but I think it is important to us that we recognize the 4.6 per cent who do it on a weekly basis.

One of the other points you raised was the reaction of the individual school boards. I am not sure if you are aware, but some school boards do ask us for the results of their jurisdiction. We provide those to them on a confidential basis. We will not publish them. To do so would be a violation of our agreement with them in having their schools participate in the study, but it does give them a basis for knowing how their kids responded relative to the total Ontario sample. A number of school boards have found that useful. We do not do it automatically but we do it in response to requests.

Mr. Popham: Mr. Chairman, I do not want to be in the same trouble I got into with the member for Essex South (Mr. Mancini) this morning, so would you be so kind, sir, as to tell me exactly what question you wish to ask that Dr. Marshman has not already answered?

Mr. Breaugh: Okay. "Alcohol was used by 71.7 per cent of the students in the 12 months prior to the survey." I believe that to be not inaccurate, probably not even wrong, but misleading as hell.

Let me premise it. The problem, as I see it here, is not one of research, of gathering information; I do not think it would be a problem if this were shared among professional people. I think the problem is that, when you put it out on that letterhead in here, you may not have come to realize that reporters read the first paragraph and write their stories.

Without maligning the newspaper profession, for a variety of reasons reporters do not often have a whole lot of time to run through all the research and all the caveats that are put on there; they do not have a background in gathering this empirical data and all of that stuff. The hard reality of life is that they read for a news story, and the first number you give them that looks different or startling gets put into the headline of the story. That headline--not the story itself, but the headline--is what causes all of the ramifications out there.

I am not accusing you of putting out false information or anything like that. I am trying to get you to talk about the technique you use for the release of the information you have and I am putting the caution to you that release in this manner causes a lot of problems out there.

Mr. Popham: It strikes me, if I hear you correctly--and I think I do--that I am blameless. Believe me, most researchers would on the whole be completely sympathetic to you. We are not fond of press releases or of the newspapers or of what happens to research in them. On the other hand, we recognize a responsibility of the foundation to do its best to communicate its research results, and that is a very tricky area.

But since you are not quarrelling with the validity of the actual figures, for which I am responsible--

Mr. Breagh: You see, I think it is a problem not of research but of public perceptions of news releases that are put out. For example, I think you said that something like 4.1 per cent of the kids in grades 7 to 13 used cocaine.

Mr. Popham: Yes.

Mr. Breagh: If you go to my police department, they say, "I have never run across an instance of kids using cocaine in the elementary school system in Durham." It seems to me that the empirical data you have gathered may be correct, and in the cool light of day sitting around a university discussion table we can all deal with that. You have caused a problem; you have not put out wrong information or misinformation, but you have put out information in a form that is likely to be misunderstood, and I think that is the problem.

Dr. Marshman: I accept your expression of concern. It is our responsibility to ensure that the researchers and the person who develops a press release do so within the framework of knowing how newspapers are likely to handle this kind of thing and to ensure that paragraph 1 puts forward numbers that not only can be viewed as valid from a research standpoint but that will not be misleading, whatever form they are translated into for press purposes.

We have worked to get the person who is responsible for doing those to work with researchers, and I think there has been an improvement. Clearly the point you are making is one that has not been adequately addressed to this time.

I would point out, however, that one of the difficulties we face is the matter of releasing all the information we have available. Although we want information on trends particularly and on age groups, because that is vital to the development of our public education programming, if we release only part of it there is the question of why we did not release it. What are we trying to hide?

This year, for example, through no initiative of ours, some members of the press dug down and looked at the data on heroin use and created quite a sensation in the media about the extent of heroin use. I think I am right in saying that from our point of view in both research and public education terms we did not see that as a significant issue at this point because there has been no development of an upward trend. There has been a relatively stable level of use over the last several years. If anything, I think it is down this year according to the numbers.

Mr. Breaugh: My problem is this release in particular. If I wanted to, and I am sure certain people will do this, I could go through this list and you would be describing every elementary school and every high school in our province as a den of iniquity, with kids popping pills, smoking, snuffing, smacking, drinking and carousing like mad.

I think there is a problem, but I do not think it is anything like that. You have put it out in a form I think lends itself to a bit of distortion here and there.

Dr. Macdonald: Have you any suggestions about how--

Mr. Breaugh: My problem is I have spent a fair amount of my lifetime trying to read research and analyse what it says. I am reasonably familiar. I start looking for variant levels and for the techniques you use to gather that information. In other words, as most people who are familiar with working in that field would do, I start looking for the little things around the edges which tell me how valid the information is.

Other people look directly at a number which was produced, and that is all they ever look at. If we had developed the perfect technique for doing this kind of survey, I would say put it all out. Let it roll. That is as good as we are ever going to get in finding out about that kind of stuff. I think you should attempt to do a bit more as experts in interpreting what these results really mean before it is released to something like the news media. That is important.

Let me move to a couple of other areas because Mr. Eichmanis wants in.

Mr. Eichmanis: You mentioned before that you are not permitted to reveal how it breaks down in relation to the boards of education. Is that correct?

Dr. Marshman: I think I am correct in saying that is a condition on which we solicit board co-operation.

Mr. Eichmanis: Would not some of the problem be resolved in Mr. Breaugh's case if you were to reveal how that information broke down regarding the boards of education? in Oshawa there would be no--

Mr. Popham: One representative would be happy, but then another would be disturbed in the extreme somewhere else.

Mr. Eichmanis: That is the ultimate solution.

Mr. Breaugh: Mr. Eichmanis has hit upon the answer exactly. I think there has to be some understanding that, for example, when you gather on a province-wide basis you are going to have differences between, say, downtown Toronto and a rural part in Ontario. Yet this statistic supposedly applies to schools across the province, so Tweed high school supposedly has a cocaine problem now. I do not believe that to be true. There are lots of problems at Tweed but that is not exactly high on the list.

It is a dangerous area to get into. If you start to make assumptions that, just because it is a small-town high school there are no problems, I think you would be dead wrong. The problems may be different in nature or to a lesser degree than you would find somewhere else. Availability of drugs is another matter.

Let me set that aside and get into a couple of other areas before everybody else goes crazy.

Dr. Marshman: May I pick up on one point? I am not sure whether I misinterpreted Mr. Eichmanis's question, but to set the record straight we do make available to individual school boards the results for their own school districts on request. We do not make available the results of other school boards for them.

In effect, that throws the onus back on them. If the people in their communities start agitating for their school board results, it is up to them what they are going to divulge.

Mr. Breaugh: There is an area that is of growing interest to me. It is nontraditional uses of drugs, some of which become kind of legitimate because the medical profession will on occasion open up a little or loosen up a little and will get into areas where the use of marijuana, heroin or other different substances which are widely held to be taboo are being used for certain medical purposes.

I went through your reports and could not find that. It struck me there was some study of nontraditional drug usage at the Addiction Research Foundation, or at least I have seen it in the past. Is there much in the way of that going on? Is there anything?

Dr. Sellers: I am having to surmise what is behind your question. If you are talking about the therapeutic use of drugs which are also illicit or illegal such as LSD or marijuana--

Mr. Rotenberg: Such as heroin for cancer patients, which has been controversial.

Dr. Sellers: --or heroin, the foundation has from time to time been involved in some research in that area, but not usually with the primary objective of the discovery of new therapeutic applications of marijuana or the constituents of it, so it is not a high priority area.

As far as the use of heroin for the treatment of severe pain associated with cancer is concerned, again this would be a treatment application that would be more appropriately conducted at, say, Princess Margaret Hospital or other cancer facility.

On the other hand, the foundation is in a position to advise with respect to the addiction liability of, for example, making heroin more widely available. In that respect, I am chairman of the committee that was established by the Minister of National Health and Welfare concerning heroin in the management of severe pain, so I am afraid I would have to disqualify myself from answering any further questions on this point.

However, the foundation clearly, by my presence there, has an interest in this matter and our specific expertise would relate to the dependence liability and addiction aspects of heroin, so that is one side of the coin of the so-called therapeutic applications of illegal drugs.

Mr. Breaugh: It is an area that has interested me for some time and which I find fascinating. It is almost the reputation of the drug which is the criterion that is used. What I find particularly venomous, to be as polite as I can, is that a physician can go to a mental health institution, an institution for the mentally retarded, a prison population, and can virtually use what he or she wants to use on a group of patients there. It does not matter whether it is an approved drug, it does not matter whether it is widely used in Canada, whether the rest of the medical society thinks this is a crazy thing, or appropriate or whatever. The law in Canada says they can do that and they do it.

On the other hand, with certain other types of drugs which are deemed not to be socially acceptable, I guess, or not made by a major pharmaceutical firm--maybe that is the criterion--we cannot seem to find a place where that kind of research can occur. That seems to be taboo, as you say. It seems logical to me that an agency like the Princess Margaret, which specializes in cancer treatment, ought to be doing some research in that regard.

I make a distinction between an adult person who is in a lot of pain and who would give consent to use that kind of treatment, as opposed to some mentally retarded kid, off in an institution, long gone and forgotten, being used by a physician in this kind of experimentation. I would want it done in an institution of some repute, where the scientific research aspect of it would be done without question and the people who are the recipients of the program would do so with a good, clear, legal decision in their mind, being mentally competent and saying, "I agree to do that."

There are some fine points in there, but I thought it would be worth sticking it in. For example, if we talk about the use of heroin for a cancer patient who is a 49-year-old man or woman who could give you clear consent that he or she wants to use that particular drug or that particular kind of treatment in a recognized medical facility, it seems to me there is a pretty good argument there for saying, "Let us proceed and let us learn, if we can, some more about that drug, whether it would be useful or not."

It seems that is almost impossible to get. Yet at the other end of the spectrum, a mentally retarded child, for example, who on most people's definition of it cannot give you a good clear consent, can be used for that kind of experimentation. I am confused by it and, as you can tell, angry.

Dr. Sellers: First of all, of course, a drug for any investigation has to be available and has to be marketed and then, for a physician to use it in any context once it is marketed or available, he has to comply with the scheduling by the federal and provincial regulations. Once it is available, it is true, one can take an approved drug and use it for so-called nonapproved indications, and we have lots of examples of that.

3:10 p.m.

Drugs that are not approved, though, are in a somewhat different category. One has to obtain specific approval, for example, to conduct a trial with heroin. It is not an approved drug and it would require a hospital such as the Princess Margaret or an investigator to gain approval. I do not think it is true that there are illegal drugs of the heroin type where--

Mr. Breaugh: Let me correct you there. I do not mean of the heroin type, but I do mean to say pretty clearly that drugs are manufactured in Canada and the United States that are not approved by anybody for use by the public and that are being used on a fairly large scale in our prisons and in institutions of all kinds. That I know to be an unfortunate fact.

Dr. Sellers: Can you give me a specific example?

Mr. Breaugh: Depo-Provera is one example I have been involved in for some time. It is a drug that is manufactured in Canada and the United States--excuse me, it is not manufactured in Canada. It is not an approved drug either here or there, and we have found several examples of its use in Ontario in institutions for care of the retarded.

It is not an approved drug; you supposedly cannot buy it. But I found out subsequently you can buy it and that it was being used for a slightly different purpose. It is a fascinating drug because it was originally marketed, I think, by Upjohn as the perfect birth control device, a serum that could be injected once a month. If you look at the medical use of the drug, it certainly is being used in a variety of ways.

In Ontario we were initially told, for example, that it was being used in institutions for the care of the retarded as a simple sanitary matter so that young women would not have menstrual periods and there would be no mess on the wards, which is a hell of a long way away from the original purpose. Then I find out it is being used in our penitentiaries for men who are convicted of sexual crimes. It is a strange and fascinating tale and not a pleasant one.

Dr. Sellers: This is an example of the use of an available drug for a nonapproved use, and I would still suggest that it is qualitatively different from a drug that is illegal and is controlled by international treaty, such as heroin and the kinds of studies that would be done with it.

I think the Depo-Provera problem is an important one. It is not one with which the foundation has concerned itself, particularly because it is not a drug with which dependence is associated or addiction or public health and social policy implications of the type the foundation has traditionally been involved in. We are concerned about such things because they often reflect a certain casual attitude to the use of prescription drugs. That concerns us.

Mr. Rotenberg: I would like to pick up, if I may, on the use of heroin for cancer. I certainly do not want you to reveal anything that is confidential--you cannot--but I wonder if you would clarify a little bit just where the heroin for cancer argument is now and where it is going, if you can tell us.

Dr. Sellers: I think all of us are aware from the newspapers pretty well where it is. One individual has provided a stimulus to consider the question of whether heroin offers any advantages in the management of severe pain in cancer patients. Various arguments have been advanced pro and con as to whether the drug has a therapeutic advantage over drugs that are already available--for example, morphine--and there have been arguments, of course, as to whether heroin has some disadvantages.

For example, it seems to be a drug that is preferred for abuse by multi-drug users, opiate abusers. Certainly, in the past year or so, we have seen an increase in Toronto in the quality of street heroin available; the purity of it has increased and the number of individuals coming for treatment at the clinical institute here in Toronto has approximately doubled, and heroin is now once again the primary drug they are using.

It is clear from recent experience and also over many, many years that heroin is a drug that for one reason or another is preferred, so it is very much a balancing of any potential advantages such a drug may have against any disadvantages, and that is largely the business of the committee.

Mr. Rotenberg: Again, I do not want to get into anything confidential, but is there a committee now that would go looking at the possibility of whether places such as Princess Margaret Hospital should be allowed to use heroin for terminal patients in severe pain? Is that something that is being looked at, or can you even tell us that?

Dr. Sellers: The terms of reference for the expert advisory committee on the management of severe pain include the preparation of a report or monograph concerning the role heroin may have in medical treatment. Concurrent with the establishment of that committee, the Minister of National Health and Welfare announced there was going to be a trial conducted across Canada

concerning the use of heroin. In fact, what she meant was that the process of trying to determine if such a trial should be conducted, how it should be, the design and so forth was going to be set in place. That is an activity independent of the expert advisory committee on the management of severe pain.

My understanding is there have been a number of meetings and there have been several draft proposals. That would be a multicentral national study involving some centres in Ontario and obviously some in other provinces as well. Whether this will happen will depend on whether a scientifically valid design can be developed and whether there are enough patients who actually require the drug. Also, I suppose there is the wily human factor in that there may not be enough investigators who want to use the drug in a research study. Those practical kinds of things will have a bearing too. I do not know the present situation.

Mr. Rotenberg: I guess at some subsequent stage the committee you are on will make some recommendation to the federal government as to whether this should or should not happen.

Dr. Sellers: They will make recommendations concerning the medical use of heroin and the implications of such use.

Mr. Rotenberg: That report will be some time in the future?

Dr. Sellers: Yes, not too far in the future.

Mr. Rotenberg: Independent of your committee, does the foundation have an opinion on this controversy over whether heroin should be used? I think the argument is only in favour of using it for terminal patients who are in severe pain. Does the foundation have a position on this?

Dr. Marshman: We have taken a position. I think the easiest way is for Dr. Sellers to take off one hat, and without espousing it as his personal position, simply give you the foundation's position.

Dr. Sellers: The foundation has been approached by the ministry on several occasions, in fact, because this is an issue that has been around. It is obviously a politically live issue. On several occasions we have spoken with officials in the ministry and prepared a short statement of our position.

The foundation's position has largely been that heroin is a drug that clearly has addiction potential and there are risks associated with this and that the evidence for the medical need for heroin is not properly established. On balance, a decision to make heroin more readily available would have to be made very carefully. It will largely hinge on a variety of political and social considerations much more than on medical ones, because the regulations concerning what the provinces can do and what the federal government can do are influenced a great deal by international treaties and so forth. It is a very complicated issue.

Mr. Rotenberg: Has the foundation itself said it is in favour or against, or is it still in the middle?

Dr. Sellers: I obviously did not make it clear. We have indicated we feel there is no overwhelming evidence that it is needed.

Mr. Rotenberg: Is needed?

Dr. Sellers: Yes.

Mr. Rotenberg: So you come down more on the side--

Mr. Breaugh: There is no hard evidence in the Canadian experience either way, is there?

Dr. Sellers: Our perspective comes from the point of view of--

Mr. Breaugh: That is the kind of comment I would expect to come out of the Attorney General (Mr. McMurtry) instead of you.

3:20 p.m.

Dr. Sellers: From our point of view, we see the public health consequences of heroin use. Our statement is based on what we see and our advice concerns the fact that the drug has clear dependence and addiction liability, which would be a very important factor in any final decision. We cannot say what the decision should be. We can only say this is something that is important.

The issue of medical need is not actually something the foundation per se should address. Somebody else has to talk about that. We can say what the harm and the difficulty with this drug is likely to be and our statement on that is clear.

Mr. Breaugh: I have a problem with what you have said on that. It does seem to me that something like the Alcoholism and Drug Addiction Research Foundation, with all its concerns, ought to be concerned that should such an event happen here in Canada, it be well monitored and regulated, done in an institution with an established reputation. I would think you would be worried about a number of things, but I do not think you should be all that worried about whether or not it happens. In another role, in a different capacity, I can see that, and maybe it is difficult to sort roles here.

Dr. Sellers: We have not made a statement as to whether it should happen. We have indicated what the problems might be. Someone else has to decide whether it should happen.

Mr. Breaugh: You are beginning to sound like the Premier (Mr. Davis) on the domed stadium.

Mr. Rotenberg: Let me put it this way. There has been some suggestion by at least one member of our Legislature who

wants this to happen and who may at some time come to the Legislature with a request that within a controlled situation this does happen. At that stage, I would think I for one and a number of other members of the Legislature would be looking to the foundation at least for some advice.

Dr. Sellers: I think when that situation arises, you will be able to obtain very clear direction from the foundation.

Mr. Breaugh: See what I mean?

Interjections.

Dr. Sellers: You have to appreciate that this is very difficult because by the time such an event might happen, the report of the committee will be released. I believe the report of the committee will be clear and concise so that the media will pick up the right message--

Mr. Rotenberg: You are talking about the federal committee on which you sit?

Dr. Sellers: Yes.

Mr. Rotenberg: Can you give us an approximation of when that committee might report?

Dr. Sellers: No, I am afraid I cannot do that.

Mr. Rotenberg: Will it be within the next 12 months let us say?

Interjection.

Mr. Breaugh: I just love this because it happens to me every day.

Dr. Sellers: Larger than a bread box, smaller than--certainly within 12 months.

Mr. Breaugh: Let me get him off the hook.

Mr. Rotenberg: Thanks, Mike, I appreciate that.

Dr. Marshman: Mr. Chairman, could I just come back to the basic question which gave rise to the heroin discussion? I think that was, does the foundation engage in research with illicit drugs and does it have agents looking for potential--.

Mr. Breaugh: That is what I said, yes.

Dr. Marshman: I think the safeguards that are probably most relevant to your question in terms of the foundation's action are of two kinds.

First, if we are dealing with illicit drugs, although we may have some in our possession for legitimate, say, analytical purposes, those would never be used with patients. When we are dealing with marijuana for administration to a patient, and this has happened for a study of a nonconventional use, then we would have to secure a supply of the drug from Health and Welfare Canada.

When we do that, they have a minimum of two kinds of requirements. One is that they are potentially giving it to a responsible place and qualified investigators; second, that there is an appropriate protocol in place. Health and Welfare Canada controls, but within our own house we have actually three additional sets of controls. One is the simple management control. Is it relevant to the foundation's objectives and what priority do we give it in terms of resource allocation?

The second control is scientific review. Scientific review of the protocol--this would be one where we would have to go to Health and Welfare Canada--is a function of both internal and external people. The members of our professional advisory board and other external experts get a chance to look at the protocol and determine that if the study is executed according to protocol, it will yield useful information.

The third control is the ethical review. The ethics review committee is a joint committee of the foundation and the University of Toronto, so it does have outside people on it, including nonmembers of either. The ethics committee is particularly concerned about inclusion and exclusion criteria, that is to say, making sure the drug is not administered to someone to whom it would present a particular risk and ensuring there is an adequate consent form and that provision will be made for explanation of the consent form so we truly are getting informed consent.

It is not a usual practice, but we have had at least one patient I can think of who had his counsel go over the form with him before he consented to the study. So the patients who would participate are truly volunteers.

Mr. Breaugh: One final area and I will try to be quick.

I am concerned somewhat about the assessment of programs that are run. I suppose in many respects we are not sophisticated enough yet to be very good at the assessment part. In many of the problems you deal with and the various agencies I am familiar with we are still attempting to get started on identifying problems, let alone assessing whether the programs work. It strikes me that somewhere we have to make an assessment of whether all the assumptions we work with are really useful.

Let me express a couple of concerns to you. Every time somebody identifies a new problem, the school is designated to solve it. I do not care whether it is sex, drugs or rock and roll, somebody is going to say the first order of business is to decide a program that can be put into the schools. We are asking our teachers to resolve all kinds of problems. I think they are going to resolve some of them, but I want to remind you they still do

not know how a child learns to read. There is a long way to go in accomplishing all these things.

If you want a big building with lots of kids in it, that is called a school. If you want to disseminate information--kits or things like that--it is a real good place to go. If I want to give out NDP pamphlets I go to a plant gate where 4,000 guys will go through in 20 minutes. That is a lot faster than trying to find them at home.

So the school has a role to play in all of that. I would be the first one to say it, but I am worried that we are now saying every time we have identified a new ill in society, "We will cure that by putting a program through a school." As a former teacher I can tell you it ain't going to work. We do not have them all reading yet and it is going to be a long time before we resolve these other things. It will work to an extent; it is the contact place and that is good. There are lots of other things there, but the assessment part is the part which bothers me.

Quite frankly, I am getting more and more concerned about the effectiveness of some programs. I do not doubt for a minute there are good intentions at work, but I am dubious about whether they are really going to function well. The reduce impaired driving everywhere program is a good example of what I am talking about. We ask what can we do to stop drunk driving. We put a lot of cops on the road around Christmas and haul people over, but I think this year's statistics would say that the RIDE program--well, let me put it this way: You can read the statistics any way you want.

I heard one police chief say the RIDE program has been more successful than ever before because we are finding fewer drunks on the road. Yet I am sure if he put his cops out there with radar traps and they came back in Monday morning with fewer tickets written, he would not be saying, "That is the most successful radar trap program we have ever run because we did not find anybody speeding out there." He would be hammering away at those cops saying: "You are doing something wrong. Get behind the bushes. Find yourself a tree. You are not out there as a public relations gimmick. Write them up."

Although police departments around the world deny there are ever quotas about these things, police officers around the world know who gets the promotions. If you do not write the tickets, you do not get promoted.

The problem I am trying to get at though is that we really do not have good mechanisms for assessing whether any of these programs work or do not work. I would like to hear what assessment techniques the research foundation is using to try to determine whether or not a program works. Whether it concerns a PR program or something more extensive, I would like to know how you assess whether it works or does not work.

Dr. Marshman: My comments will be general--Mr. Popham can provide the specifics. I think there are three areas of our endeavour that are relevant to what you are concerned about.

3:30 p.m.

First is the program development research that we engage in, and here I am thinking particularly of things such as employee assistance programs, drinking-driving programs and I guess education research. The concept behind program development research is to take what seems to have the best prospects of success in terms of outcome. Depending upon the situation, that outcome may be one thing or another.

The concept is to build a program around those scientifically validated concepts, put it in place in the real world in a controlled situation where you can measure the outcomes quite carefully and determine whether that is something you ought to spill over into the real world in terms of your treatment or education programming or whatever.

For example, in the drinking-driving area, it has become quite clear there are several potential ways of influencing it. One is in primary prevention, education, deterring people from drinking and driving. The second one is picking up those people who are drinking and driving and giving a higher visibility to the police officer who is going catch you if you drink and drive. The third one is improved effective rehabilitation programs for the person who has driven while drunk, who has been arrested, convicted and sentenced.

It would seem quite clear there has to be balance among these things. Going off on one of these alone will probably have a ripple effect with some compensatory effect down the line. It is our view that the small-scale, research-based program development plays a very real role because it prevents us from going out and promulgating a program across the province which has very severe limitations and is not effective.

The second sphere is the education package development or the education program development. I am thinking particularly of what we are doing with school children. Again, we face the fact that every time we put out a package that consists of a videotape, some print material and a teacher's guide and we try to make it available across the province to all school boards--that is, a single copy to all school boards except for print materials which may go to more than one classroom--we are talking about an investment of about \$120,000.

Since we are talking about many age groups and substances, you can see how that can multiply quickly. We have to be sure it is having a positive impact, so of late we have not been routinely engaging in target audience research in which we have a prototype package that is tested with the potential target audience.

Among kids, we are looking for an increased knowledge about substances and people's response to the substances, the risks and so on. We are looking for attitudes. The final cruncher is not something we can do before the fact. The final cruncher is their behaviour in later years, as adolescents and as adults. It is going to take a generation for us to find the answer. We cannot

hold up making some effort in the direction of public education for that generation-later answer, but we certainly do go through the first phase so we are not putting out something that is not achieving an objective of knowledge and attitude change.

The third kind of research which is relevant to your question is program evaluation research in the community. That is where we engage in an evaluation from a researcher's perspective, doing systematic data gathering and hypothesis testing about the impact of the program in the community. That is one upon which Mr. Popham may want to make some particular comment.

I would only make the general comment that it is very difficult to secure the full-hearted co-operation of community services in the evaluation research area because when a researcher sees a negative result, he knows that may be a dead-end street or the approach may need some refinement. From the community's point of view, that takes the wind out of the sails of a lot of people who have worked very hard with very great commitment to something. We do not get universal applause for the concept we are going to evaluate. On the other hand, there is a place for evaluation if we are to ensure the resources that are available for some of the things you spoke to earlier are deployed in the best possible manner.

Mr. Popham: What more would you like?

Mr. Breaugh: One concrete thing that has been discussed here a number of times is whether breweries should be advertising on TV. We have never done anything about that, but the fact still remains that if I want to watch the hockey game on TV tomorrow night, for about two and a half or three hours there will be a brewery telling me to drink beer, that it will make me look good, that I will get a young blonde who will fly off to Rio with me, that I will not fall off the surfboard and that I will catch fish with the guys this time instead of hot dogs.

If I am sober enough around 11:30 p.m. or so, the Ministry of Health will come on and tell me to fix my kid's toy and not to have another drink. By then, it is a little useless.

Would it be useful to research that kind of thing? As long as we allow the breweries to advertise all the wonderfulness of drinking beer, there is not much sense in putting on an ad at 11:30 saying, "Do not have another drink." By then I do not need another drink. Maybe one of the most concrete things you could do to combat some of the problems of alcoholism is simply to remove all those things promoting the sale of alcoholic beverages, all that wonderfulness.

There are people in this world who have a lot of money and sell a product. They can make the world around us buy hoola hoops, and running shoes with three stripes on them as opposed to running shoes without three stripes. They can make us buy a particular brand of beer and convince us it is a moment of great pleasure. It is associated with all the things little boys do when they turn 27, and the things some of us still do when we turn older than that. That is an area where we ought to do some assessing. All the

programs that are run are perhaps being run into the ground by all the advertising programs still flowing on.

Mr. Popham: It is an area that makes a researcher extremely uncomfortable. It is a very difficult area to do research in. The answer is, yes, we have done some. We have some under way now. We have tried to do little experimental studies. We try to do larger scale things in which a flock of student assistants watch television hour after hour to find out how alcohol, smoking and so on figure in plays, advertisements and the whole picture. It is exceedingly difficult to determine what kind of impact you are getting in the short term with this sort of effort.

We have seized opportunities such as the temporary ban in British Columbia to see what effect that had. The trouble was it was not banned in the nearby state of Washington or in the next province in Canada, so we did not have a pure kind of experimental situation. As far as I know, no researcher either in our foundation or elsewhere has found clear evidence of a short-term effect in the direction of enhancing alcohol consumption, for instance. There is no clear, scientifically acceptable evidence.

You have to remember that the measures and controls you can use are not of the best. The time situation is short. We had a few months' ban in British Columbia and it was not a pure situation. You can still get messages from elsewhere so you probably would not expect much of an effect.

It is very like the situation with some education programs. You can experiment with them. You can at least find out if the kids understand your new program, if anything is getting across. You can do that in a nice controlled situation. But with education in a broader sense, it is probably a generation thing; likewise with advertising. For kids born today, or 10 or 20 years ago, this advertising has been very much a part of their lives along with a lot of other stimuli, especially for drinking. There is not much advertising for smoking any more.

3:40 p.m.

In a way one is asking, "How would it have been in the past in the same society, Ontario, without that advertising?" That is what we would like to know. Like you, from what you have said, my personal opinion is the impact has probably been considerable. In a way there is a double whammy. In the first place there is whatever effect the advertising itself has. In addition there is the fact that the government allows the advertising, which reinforces something because people assign a public health role to government, a protective role to government.

As you pointed out earlier, you can buy a bottle of booze in a government store, so I suppose there is a message that the government does not think it is a bad thing. You cannot buy a kilogram of heroin, that is for sure.

Mr. Breaugh: I am told they sell it at some LCBO stores.

Mr. Popham: Let us say, not with official sanction.

Mr. Breough: Nonsanctioned sale.

Mr. Popham: In a sense, you could hypothesize that there is probably a double reinforcement. If the government does not see fit to prevent lifestyle advertising of alcoholic beverages, that in itself is a message if it is not very much controlled. The second message is whatever is coming from the advertisement. Over a long period, to get at the impact is formidable, if not probably impossible, in the full, purest experimental sense of proof of impact.

Mr. Breough: You are probably right. What disturbs me is having evidence flowing across my desk every day which tells me that more and more people have a sole source of information and that is the television tube. If we wrote the world's greatest story and we made it page 1 of the Toronto Star--you could not do it in the Sun; they never print complete sentences in the Sun--or if you made the three major daily newspapers here in Toronto, there are a lot of folk out there on whom it would have no impact. You and I would be elated that addiction research finally made front-pagenews but there is an increasing number of the population out there on whom it would have no impact at all.

Thirty years ago it would have had great impact. Now their sole source of information is television. I do not recall seeing your little brochures displayed on TV during a hockey game when somebody would be watching. When we discuss this with the breweries they say, "Listen, we really do not sell more beer because we advertise; we make brand preference the keynote in that." I have to believe that the breweries know something we do not know because they are spending a potful on television advertising. I do not think it is because they really want us to bring Hockey Night in Canada into our living-rooms. They are there to sell beer, to make money.

You saw the phenomenon, for example, a very scientific thing, when Miller beer arrived in Ontario. I happened to be working at Fiesta Week in an arena in Oshawa. I had heard of Miller beer but I was not sure it was sold in Canada. I could not believe the brand preference, as they say in the trade, for Miller beer on one summer evening in Oshawa. It was a phenomenal impact.

Mr. Rotenberg: It was Miller time.

Mr. Breought: Probably. You are right. If you shut off all the Canadian beer advertising, you would get a truer picture of how powerful an influence the American beer advertising industry is on the Canadian market.

Okay, I have badgered you enough. Thank you.

Mr. Watson: Mr. Chairman, I would like to explore some of the things to do with the age of majority. Does the foundation have any opinions on the age of majority?

Dr. Marshman: I do not believe the foundation has ever expressed a position.

Mr. Watson: Have you done any research as to the effect of the present age of 19 versus 18 or versus 21?

Mr. Popham: Oh, yes.

Dr. Marshman: Sorry, I take my answer back. I thought you were using the age-of-majority term in a somewhat different sense. Mr. Popham had best speak to that.

Mr. Popham: For once, the research results are reasonably clear in this area. When this province and a number of states of the union and other provinces in Canada put the age down, consumption increased in the age group affected and problems increased. There was a real increase in alcohol-related accidents, some indication of an increase in even clinical alcohol problems and certainly an increase in consumption.

When some jurisdictions raised the age again--for example, Michigan put it up from 18 to 21, a substantial increase--that situation was pretty clearly reversed. Consumption went down and problems went down.

In Ontario, if there was an impact it was too small to detect. One cannot say from the research whether there was an impact when the drinking age was put up from 18 to 19 with a grandfather clause. It is a very small increase and it would be very difficult to detect much change.

We did survey school principals and vice-principals to see if they had a general impression about the impact. They were divided. It was an equivocal result. Apparently, it was not clear that it had much impact on the situation. We could not detect an effect in available consumption and problem statistics.

You have to keep in mind that as a rule you cannot get specific consumption data, hard objective data, for one small age group. You are often working with statistics that are available for a much larger population. For example, even if the kids double their consumption of alcohol, it hardly has a noticeable impact on the per capita consumption of the population as a whole.

I am saying it is very difficult to get sufficiently sensitive measures. If the change is large enough, as it was when we came all the way down from 21 or as in the state of Michigan where they went all the way back up to 21, there is enough effect on available data to indicate that if you put the age down, the public health problems go up, and if you put it up, the public health problems go down.

There are a whole lot of other issues to anyone who wants to make that change. We are not competent to comment on some of them, but from the point of view of alcohol problems, that is the way it appears to be.

Mr. Watson: Okay. I am interested in the present situation in Ontario with regard to the age of majority cards. I would like to see a system whereby anyone issued with an age of majority card is required to have at least some educational

requirements to get that age of majority card. At the present time, it is a matter of proving your age and getting it.

There is a certain amount of support out there in the industry for this, particularly with the recent court case where the court found for the people who were in an accident and said the people who were serving in the hotel were liable.

Would you have any opinion, for instance, on how much time or what would be involved if the province, through some means, were to institute a system whereby the issuance of the age of majority card required some kind of qualifications?

Dr. Marshman: You are asking whether we think it might be feasible--

Mr. Watson: Yes.

Dr. Marshman: --if the decision were taken to go ahead?

I do not think there would be a problem with feasibility if what you are looking at is knowledge. I can imagine doing something analogous to the driver training manual whereby there is a book you can take home. You can study it for aeons if you wish, but before you get the little piece of paper that says you can drive, you have to pass a test based on the book. That is a knowledge-based test. That would be quite feasible.

The matter of attitudes is a somewhat different thing. People practise for tests and I am sure they would come to know the acceptable answers. To use the university term, they would probably "fog it." In terms of whether there is a relationship between their answers on knowledge and their answers on attitude and what they actually do in behavioural terms after they got the neat little age of majority card, that is something we have no basis for speculating on, whether there is going to be a relationship there. In terms of straight education, it would be feasible to provide some such thing, if the decision were taken that it is appropriate.

3:50 p.m.

Mr. Watson: One of the examples I use and the basis for my thoughts on this goes back to getting a hunting licence in this province. They used to shoot hunters like they were going out of style. I happen to have the figures here. Back in 1960, there were 36 fatal accidents in hunting; I expect at that time people got excited and said, "We have to do something about this."

I got my first hunting licence about that time. All I had to do was go and get it, and I did. Now you have to complete a hunter's safety course before the province issues a hunting licence. Last year, there were four fatal accidents. In 1960, there were a total of 154 accidents and last year there were 42. The figures have gone up and down a bit, but are pretty well in that direction.

We had a lot of things in the press, particularly over this

last Christmas. I think there is public acceptance that drinking and driving just do not mix and we have to do something about it. People tell me, "You have to have stiffer penalties." Then you get the other side of the coin where they say, "If you are going to stop people, we are living in a police state." We get into those kinds of arguments.

In my opinion, the place to emphasize this is in the education system. In my opinion, the time is almost right to come in with some kind of education program. I would prefer to call it an age of maturity card, rather than an age of majority card, but that is pretty hard to judge.

If a course or qualifications were set up, can you see the foundation playing a part in that, directly or indirectly?

I was interested in Mr. Breaugh's comment. He almost led in to this when he said, "The first thing that happens when somebody comes out with a program is they want to put it in the schools." I am not exactly enamoured with putting this in the schools. That might be one source, but community colleges or service clubs could do it.

I could see your foundation playing a part, if we divided it up into five two-hour sessions, five evenings, or something of that nature. I could see the local police force, for instance, providing one of the credits and actually showing people how a breathalyser works and what happens.

We might have someone from the court system to explain what can happen there. We could use the present courses in the school, if a person has completed them, as one of the credits towards this. It is in its infancy stage in the thoughts I have on it, but I think if we put some resources in--and I guess resources means money--at the education stage, we can get this.

My other thought, and the reason for asking what you thought of the age is one of the ways I see of enforcing this is to say, for instance: "We will continue to issue age of majority cards at age 19. If you don't care enough to bother taking this course, then you do not get your age of majority card and we will raise the drinking age to 20." I think there would be considerable incentive for 19-year-olds to get that age of majority card.

I do not want to go into the ethics or morals of drinking or not drinking. I am thinking more of the use and abuse of alcohol.

Dr. Marshman: I think Dr. Macdonald would like to speak to that, and I will comment subsequently.

Dr. Macdonald: To answer your specific question, if there was any decision by the government that it wanted to require a certain level of knowledge in relation to alcohol in order to obtain a card or to meet some other requirement, the foundation would certainly be in a position to develop the necessary material. I could do that readily enough.

I have not heard this idea before, so I am talking very much

off the top of my head. My reaction is that if something of that kind were going to be done, it might most easily be done in relation to obtaining a driver's licence, when there is already a requirement that you meet certain criteria. Driving a car is not a right; it is a privilege you get by meeting certain criteria.

If it were tied to that--if you added to the kind of knowledge you must have about the rules of the road and so on a knowledge of the impact of alcohol on the human system and how it relates to driving and so on--that might be a place where it would be politically more feasible than it would be if you were to apply it to an age of majority card. That is very much off the top of my head.

Mr. Watson: But when we talk about driving we are talking about an age of 16 years. When we talk about an age of majority card we are talking about an age of 19.

Dr. Macdonald: But it is not a bad idea to have them learning at the age of 16.

Mr. Watson: No, I do not disagree with that.

Dr. Macdonald: A lot of them are going to drink, anyway; we know that.

Mr. Watson: Yes. I get the arguments, as everybody else does. I guess I have thought of some of the negative things on this.

People say, "If I am old enough to go and fight for my country, I am old enough to drink," and there may be some truth to that. But the fellow does not go out and fight for his country if he has not had some training, if he does not know that you do not stand up there and get shot at or you do not stand in front of a gun when it goes off--those kinds of things. You do train them.

I do not want to train people to drink; I do not want to make it a mandatory thing that everyone in the province has to go through. I would like to put a bit of sugar on this sort of thing as it is perceived by young people, to get some of them educated or get them knowledge that maybe they otherwise are not going to get.

It seems to me that a boy or girl of high school age who is getting a course in the use and abuse of alcohol from the school teacher is really not going to learn as much as he or she would by spending a couple of hours in a police station or some such place where one can say: "Here is what happens. This is the way a breathalyser works," and that kind of thing.

My main purpose behind this is to try to do something positive rather than the types of things we seem to get, particularly around the holiday season, which I say are kind of negative--in other words, this bragging about how many we have stopped and what problems you get into. Let us be positive about it and get it so it is a total help to our society.

The chairman said this afternoon that we have accepted drinking in our society. Prohibition has not worked, so therefore it is a matter of control and knowledge.

Let me get a little more specific, then. How many centres do you have? Do you have 30?

Dr. Marshman: Twenty-nine, I think it is.

Mr. Watson: Twenty-nine. Would you have enough people in the so-called third of your budget that is devoted to education, which we heard about this morning, to take part in such a course across the province? Are you well enough situated to provide that type of service?

Dr. Marshman: We are well situated in southern Ontario; we would have some operational problems in being in every small community in northern Ontario. You suggested implicitly some face-to-face and on-site sessions and I think if you were to put such a plan into operation there would have to be some preparatory work done to determine whether some of the sessions could be developed through videotape, teleconferencing or some such thing, whether it all has to be face to face, because that would affect our ability to deliver right across the north, in every small community.

4 p.m.

We do have centres in North Bay, Sudbury, Thunder Bay, Kenora, Kapuskasing and Timmins, but clearly there are parts of the province from which commuting to those places may be a little bit difficult. It would be a matter of an operational approach to put our staff out there to the extent that it would be warranted by the benefit of talking face to face.

The answer is yes, I think we can do it. It might cost a considerable amount of extra money in in travel costs in northern Ontario. This is an area where you may want to look to the beverage alcohol industry paying the shot, because it would seem that according to the way I have understood it, it would be getting the benefit of the sales for the years 19 to 20, or 18 to 19, or whatever it is.

Mr. Watson: I do not know. Again, I am pretty flexible. It is just an idea I would like to promote. I do not think we are going to get into it all at once, but you have to start somewhere on this thing.

I understand there is a proposal, for instance, in the United States, and they are having some constitutional difficulties with it between the federal government and the different states. One of the senators is suggesting a bill be passed to raise the drinking age in the United States back up to 21. I think it had a two-year grandfathering clause, to get around any problems the laws of any states would create.

That is another question I had in the back of my mind. Have

you heard of this proposal, and would it have any implications in Canada?

Mr. Popham: I had not heard of the proposal.

Mr. Watson: I do not know how serious it was.

Mr. Breaugh: They could not do that in the United States. It is a matter of state--

Mr. Popham: They could not do that. They could have supporting legislation, I suppose.

Mr. Breaugh: It is a matter of civil rights or something.

Dr. Marshman: But is the basic question, where would we stand on raising the drinking age to 21?

Mr. Watson: Yes, or 20.

Mr. Popham: We or me?

Mr. Breaugh: We have a whole row of Bill Davises here.

Interjections.

Mr. Popham: According to the public health point of view, we should put it up to 21, and if I were 20 I would find a lawyer who would take it to the Supreme Court of Canada and challenge the constitutionality of it.

Mr. Breaugh: Bill Temple says the legal drinking age should be 65.

Mr. Watson: This is one of the things that bothers me and has bothered me in terms of my thinking on the proposal I have laid out here. Maybe you cannot answer this but can give an opinion.

Could we have a law in this province which said the drinking age is 20, but if someone has completed this course we will let him drink at 19? Again, would you get your lawyer and go to the Supreme Court on that one?

Mr. Popham: You bet, and it would support me, too. That is only my opinion and I am not a lawyer, but it seems to me the present age is contrary to the bill of rights. It is as contrary as if you made it possible for men to drink and not women.

A particular age group has been picked. The age of majority is 18, but we have said, for some reason, those from 18 to 19 cannot drink. That is labelling one whole category of people, and I think it is entirely contrary to the bill of rights; but I support it. It would be a better situation from a public health point of view if the drinking age was up.

Mr. Watson: I have made some sort of suggestion. Would you have any opinion on the length of time for the program? Let me

pull a figure out of the air. Could anything be accomplished in 10 hours if it were divided into five two-hour sessions? Do you think it is even worth while considering for the trouble it would be to organize? It would be difficult and fairly costly.

Dr. Macdonald: Yes, I think the cost is an issue you would have to take into consideration: how many people per year would fall into this category, and how much would it cost to provide 10 hours of instruction to that number of people. I think all of those things would have to be quantified before you could make any judgement about it. As far as getting the information is concerned, you can transmit the basic information you need quickly by videotapes and print, but whether it is assimilated is another question.

Mr. Watson: I guess I am influenced a little by some of the things which have happened to us here. I think some people have changed their minds. I think those who have been treated to some of the educational films on seatbelts, for instance, might have a slightly different opinion about seatbelts than they did when they just had their own philosophy.

This very committee went to the censor board a couple of years ago. I think some people on this committee have changed their minds a little, modified them slightly, with regard to censorship after having been there to see for themselves.

We will not affect everybody. I realize something is going to be costly. This is probably where the foundation comes in on the research end. But if we save lives and if we save suffering, then what is it worth? Maybe we should be doing something. Besides, in my opinion--I keep coming back to that word--it is a positive thing. I do not want to make it a penalizing thing. I want to make it an educational, positive, outgoing type of thing.

Dr. Marshman: If we start from the position that such an educational effort is a step in the right direction, it becomes a question of how one operationalizes it. That is a place where the foundation could be helpful in the development of a research study, looking at comparative approaches to do that. I would suggest such a study be done prior to the contemplation of the specifics that would be prescribed. We would be quite willing to embark on the development and assessment of a pilot project that could be used for that.

Going back to your 10 hours for a minute, my personal sense is that is an upper limit, but that is based only on the fact I have about 10 hours of instruction with physical and health education undergraduates, tomorrow's health education teachers in schools, on psychoactive drugs, and we cover a tremendous amount of material in that period of time. They are a little older, but for me that sets an upper limit. I do not think you would want any more than your 10 hours. I suspect with the appropriate use of videotape and print materials you could come off with considerably less and do a very good job.

Mr. Watson: I am pulling that out because I think that is what the hunter safety is. I am just pulling that out of the air. I expect there will be further discussion on this around here, so I have been pleased to have your comments on that.

One other area I wanted to touch on is your relationship with industry and the programs industries have for alcoholics within their organizations. Do you have advisory services to industries on how to set up those programs or on how they get involved?

Dr. Marshman: I can give you the basics and Mr. La Rocque can give you the specifics. The basics are that in each of the 29 centres we have some capability for involvement with industry and what we tend to call employee assistance programs or employee recovery programs--it depends where you are coming from--and in those we deal with business and industry, large and small, and also labour groups.

In fact, we have just finished a three-year project with the Ontario Federation of Labour and the Canadian Labour Congress. We are coming to the end of the second year, I guess, working with--actually we have a man seconded full-time to the joint Ontario Civil Service Commission and Ontario Public Service Employees Union committee for the employee assistance program.

4:10 p.m.

The services we deliver are basically in the area of consultation around company policy development and program formulation and, in addition to that, the training that is necessary for both the staff at large and supervisors, because the program is largely focused on identifying people who have performance deficits that are seen as attributable to some type of personal difficulty, which may be alcohol or drugs. The thrust to the workers at large is important because the current situation is encouraging voluntary referrals, in other words, people seeking out assistance before their problem starts to interfere with the work situation.

The third dimension in which we provide assistance is in certain situations where we evaluate just how effective these are. Mr. La Rocque can give you some more detail in terms of the breadth of the programming across Ontario.

Mr. La Rocque: You asked how we interact with organizations in the occupational community and also with unions. I presume that is part of your question. There are various employee assistance program councils in the province that meet on a regular basis. We are generally part of those councils. There is one in eastern Ontario, for example, in the Ottawa area. We also have regular interaction with various personnel organizations in Ontario.

In the area of employee assistance, the primary way we interact with the occupational community is at the request of major industries and/or organizations. In the occupational

community, I believe we have quite a good reputation in respect to our ability to develop EAPs. We frequently get requests for the kind of service we provide. I would like to give a few examples a little later on.

It might be important for me to describe briefly what the employee assistance program is about. What the EAP of the foundation actually consists of is the development of written policies and procedures in collaboration with management and labour on any particular work site. The purpose of that is to enable the early identification, assessment and referral of people with alcohol and drug problems to appropriate treatment facilities. It is a major program we have.

I should mention that the policy of the addiction research foundation is that wherever there is a unionized work site, we will not work simply with management. We insist on having a joint union-management committee as a forum for the development of our programs. Over the years we have found if this does not occur, the programs do not get anywhere.

Another important component of EAPs is supervisory training, which enables the early identification of individuals with problems so they can be referred for treatment.

Each year the organization works with approximately 250 organizations in Ontario. Examples of these organizations are the Abitibi pulp and paper company in Timmins and General Motors. As a matter of fact, over the past two or three years we have trained almost 1,000 supervisors in that organization at their request. We have had a program with General Motors for a long time. Other examples are Canadian General Electric, Inglis, Union Carbide, American Motors, Kodak, Inco and Falconbridge, just to name a few.

The EAPs also involve work with boards of education, such as Durham, Peel, Sudbury, Windsor, and with hospitals, such as the Ottawa Civic, York Central and the Children's Hospital in Ottawa.

In terms of potential impact, the population that would be covered by the organizations we work with would be approximately 193,000 people. That does not mean we are always successful in enabling all the individuals in those organizations who have problems to be assessed and adequately treated, but at least the potential is there. I believe the organizations we work with generally value very highly the services we provide.

Just for your information, I can give you a brief breakdown of the sectors of the occupational community in which we work. The manufacturing sector would represent 50 per cent of the time and energy we spend in this area. Various business and personnel services, including hospitals and boards of education, would account for about 22 per cent. Public administration--that is, regional municipalities and so on--would be approximately 11 per cent. Transportation and communication and other utilities would be approximately 10 per cent.

Although we cover only approximately six per cent of the total working population of Ontario, I personally believe that with the resources we have available to us--30 of my staff in the regional programs division work in this arena--we can have an impact. To come to a conclusion and answer your question, we generally try to work with those organizations where we believe we can have a meaningful impact.

We select them on the basis of our experience in working with similar organizations, where there is a high degree of commitment by union and management in a work site. Without that, nothing works. I guess those are the criteria we would identify, in addition to being asked. We will not always respond simply because we are asked unless there is a willingness to go along with the criteria we have learned to be important in initiating these programs.

Mr. Watson: You have covered the area of larger industries and organizations. What about the fellow who owns a garage, who has five employees and one of them is an alcoholic? What do you do with the fellow who owns a business, whatever it is, and who says, "I am going to have to let this guy go if he does not straighten up. What can I do?"

Mr. La Roque: We also have a program specifically designed for small organizations. Many of these are not unionized. I mentioned a while ago that we prefer to work with organizations that are unionized. In these we insist on working with union and management. We work with many small organizations that are not unionized and with many small organizations that are.

It is essentially the same procedure with the smaller firms. We sit down with the managers in that organization and try to identify the extent to which a problem exists. If the problem happens to be with just a few employees, we would give them the benefit of our experience in having worked in similar situations. We find in these situations where individuals have been employed for many years it is very much to the advantage of management to hold on to these employees.

Our objective in that situation would be to do a proper assessment of the individual to ensure the individual is referred to the kind of treatment organization that will provide the best care. Part of the reason we would do this in the first place would be to have a written policy in place. There would be a set of procedures an organization can follow and the managers can understand very clearly what the best procedures are for dealing with these situations. We provide that advice on the basis of experience.

Dr. Marshman: If I may add a couple of points, I think the approach we have been taking to training with small businesses has been to do it on a group basis. In this way, the owners or managers of a garage and a couple of other small organizations in the community would be able to share the training experience, and it really does become cost effective for us. From there, we will learn the sort of strategies for dealing with this problem.

4:20 p.m.

The other point is we are just about to issue the first issue of a newsletter for business, industry and labour on work site programs. One of the purposes of that is to make sure it gets into the hands of as many businesses and industries as possible so they know where they can go for help if they have that kind of situation. I think making them aware of the services that are available is just as important as the other issue mentioned.

Mr. La Rocque: One of the key issues, if I could just add a word, is enabling people to confront the problem in a constructive way, that is, to confront the employee in a constructive fashion. It is incredible how difficult this is, particularly in small organizations where people have known one another for a long time.

Employees will cover for one another. Managers will be very fearful of confrontation and they will permit a problem to go on for a long time, until it reaches a point where, in some instances, they have no option but to terminate. We try to identify procedures that will assist them to deal with those kinds of problems and connect them with the individuals who can give them the right advice in respect to those kinds of problems.

Mr. Watson: Okay. If we can go to a different field altogether, you have been most helpful to me and other members in providing information on what you do and how you do it.

One of the things this committee does or is interested in is your legislative mandate. In other words, is there any change in the legislation which gives you the authority to operate that you would want to see updated or deleted, or are you reasonably happy with the authority under which you operate? I guess that is what I am looking at.

Mr. Macdonald: No, I do not think the Alcoholism and Drug Addiction Research Foundation would want to see a change in the mandate as it is described. I acknowledge it is difficult to meet all the expectations that come out of that mandate with total effectiveness because the mandate is very broad. On the other hand, its breadth allows the foundation to make choices in the areas which in its judgement represents the areas where we can be the most effective. Our view has been that it is a good mandate. It is well described in the act, and we are very happy with it.

Mr. Watson: Thank you.

Mr. Hennessy: I just have a short question about alcoholism which I think was mentioned before by a previous speaker. I am from Thunder Bay where there are 113,000 people and a lot of people come from other areas such as Kenora and Sioux Lookout. There are problems there, and I am greatly concerned because there are no centres for persons, especially females, who have alcohol-related problems.

There is something for the males, but with the world being equal today, women can drink as much as men. It is allowed today. When a woman with a family runs into this problem, the husband is stuck with a dilemma. The people who have to take care of it, whether it is the police or whether she goes to the hospital, have to find makeshift quarters for her, which is not solving the problem. On the other hand, there is a centre for the males. I am very concerned because there is nothing for the female.

Mr. La Rocque: Are you talking about detoxication facilities, sir?

Mr. Hennessy: That is right. I was reading in the paper the other day where they refused funding in regard to something of that nature. There is somewhere the male who can go and be taken care of, but the females do not have a place of their own.

Mr. La Rocque: I am not sure if you are referring to detoxication or a treatment program.

Mr. Hennessy: I would imagine it would be a treatment centre. You do not have that. I have had calls and letters from people in that area and I have written to the minister. I got a big no, which I am not too happy with, because you have people up there coming from all over.

If you knew what Thunder Bay is like, there are a lot of small towns and municipalities where they come in to Thunder Bay and perhaps go off on a spree. They do not know anybody there, and the first thing you know, where are you going to put her? They may put her in the jail, and this is not right. After all, if you have to quarter someone in men's guest rooms, you have a place to send them.

Mr. La Rocque: Yes. I know there is a detox unit in Thunder Bay, and it has five beds for females, but perhaps they were wanting to expand the program.

Mr. Hennessy: It is not satisfactory as far as I am concerned.

Mr. La Rocque: Is that the program you are referring to?

Mr. Hennessy: I am not a drinking man, so I do not know that much about liquor.

Mr. La Rocque: You have not been to the detox lately?

Mr. Hennessy: But I know I did have calls from people asking me for suitable quarters for females, because they feel the other side of the coin is being well treated. I think women can drink as much as men; it has been proved. But if they are in town and they live 100 miles away, they are all alone. Nobody knows who they are, and what are they going to do then? More things can happen on top of that, and the first thing you know, you have got a real ball of wax.

Mr. La Rocque: Yes.

Mr. Hennessy: I would just like to leave the impression with you that some day I would very much like to see some quarters of that nature put up for females. You should not be moving them in with the males if it is necessary. It is not being fair. They are not getting the proper treatment.

Mr. La Rocque: There is what is commonly referred to as a halfway house in Thunder Bay, but you are quite correct: it does not have female beds; it is for males. It is called Crossroads Centre. The fact is that in certain areas of Ontario there is a dearth of beds for females, and this applies--

Mr. Hennessy: In all fairness, "certain areas" will not help me unless we want to move them down to those areas by plane.

Dr. Marshman: I think one of the problems we face is that originally detox centres were intended to serve the needs of the chronic drunkenness offenders. The chronic drunkenness offenders who were identified at the time were largely males; thus, many of the detox centres started with male-only beds.

Gradually some of them have added some female beds. As the apparent need has increased there has been both an expansion of interest in the development of beds for women in detox centres and a movement towards separate facilities entirely. There is no separate facility for women in the detox centres in Metropolitan Toronto; there are beds for women in the other centres.

I think the desirability of separate facilities for women has certainly been getting a lot of study of late, and I do not know what the Ministry of Health's disposition on the issue is at this moment. Our co-ordinator of detox training serves as a co-ordinator of detox training for the province, and I am quite confident in saying that she is in a position to provide advice to the ministry on that matter.

Mr. Hennessy: In closing I just wanted to thank you very much. I thought your answers were very worth while, and it was a very good day as far as I was concerned for picking up information. I just want to leave with you the concern I share also in regard to Thunder Bay.

Mr. Chairman: I think the last matter is that Mr. Eichmanis has some questions on the Solandt report.

Mr. Eichmanis: I wonder if you could give me the origins of the report and what the status of the report is. Have you accepted those recommendations of the Solandt report?

Dr. Marshman: The origins of the report?

Mr. Eichmanis: Yes. What was the basis for initiating the study?

Dr. Marshman: The study was commissioned by the Minister of Health. I believe it was the Honourable Dennis Timbrell.

Dr. Macdonald: Yes. As a matter of fact, I believe it was initiated largely in response to the advice of this committee in 1978. There may have been other considerations as well, but I am not aware of them.

Mr. Eichmanis: Okay. Has the foundation accepted the recommendations? Has it gone to the minister for implementation or consideration?

Dr. Marshman: The report itself was directed by its authors to the Minister of Health. The foundation secured the agreement of the representatives of the Ministry of Health to distribute it among our own staff because so many of them had been involved in input into the information collection of Dr. Solandt and Dr. Warwick, but it remains a ministry report.

4:30 p.m.

We cannot speak to any extent to the ministry's position on the report. We can say those recommendations which may be viewed as directed to the foundation or having implications for foundation action have largely been addressed by us, such things as encouragement of staff to communicate with government personnel on alcohol and drug-related matters.

In particular, our staff has been increasingly involved with various ministries, not only Health but the Ministry of the Attorney General, the Ministry of Transportation and Communications and the Ministry of Correctional Services on all-round drinking and driving; the Ministry of Labour with respect to the employee assistance program; the Ministry of Community and Social Services with respect to treatment service facilities of the recovery home sort; the Liquor Licence Board of Ontario with regard to beer in the ball park.

In terms of action to build better understanding of Alcoholics Anonymous, certainly in our staff and community professionals we have ensured that the School for Addiction Studies' courses give appropriate attention to AA, its principles, its operation. That is recommendation 2(v).

Action to make our task and message more visible in the media fits into some of the comments that were made this morning. That is recommendation 2(vi). We have introduced a new service to newsletters and house organs. We have taken a higher profile in terms of press releases, not all of them of the school study sort, I must say.

There is also the establishment of a media advisory committee to help us get the best out of the media in order to use the media to disseminate our message; more vigorous planning and execution of a public service announcement program. Previously, most of our public service announcements have been of the radio type. We are now launching into an attempt to get public service spots contributed by television as well and increased initiatives with periodicals and newspapers.

The continuation of the policy of secondment of personnel to

treatment services and other places is recommendation 2(vii). We have continued that.

Continuation of the professional advisory board is recommendation 3. We have continued with the professional advisory board and have enhanced its role. They have found themselves exceedingly busy in the past year.

Maintenance of the 1981-82 level of base programming is recommendation 4(i). That is really determined by our funding. We have managed to maintain the base program at that level. Of course, that is subject to changes of function and funding.

The exploration of possibilities for nongovernment support is recommendation 4(ii). In the area of research we have been looking increasingly to outside funding, that is, outside our grants, from places such as the Medical Research Council of Canada, the Alcoholic Beverage Medical Research Foundation and the pharmaceutical industry, which is a rather novel direction, I guess. We are trying to negotiate a royalties agreement for the dipstick invention which measures alcohol in blood saliva and urine. We hope those royalties will also serve to support research.

As far as donations go, we have put in place a formal in-memoriam program through Ontario's funeral directors, and we are looking to solicit contributions from local business, industry and voluntary groups for specific projects and products. For example, the Junior League of Toronto supported our initial pamphlets around Dial-A-Fact.

Various businesses, including some very small businesses in Thunder Bay, supported the research project on Booze, which is a dramatic presentation by high school and college students to their peers about beverage alcohol. This was an innovative, educational approach. We engaged both in the evaluation of it and also in the publication of the script and the director's script. This would be another approach, other than the video and the print and so on. It has turned out to be a very successful venture and a number of businesses in Thunder Bay contributed to that.

A number of businesses in the eastern Ontario area have contributed money to the development of EAP training materials that will be used in that area.

There is a limit to what we can do in this sphere at this time for several reasons. One relates to the fact we have an agreement with the Ministry of Health, three back I guess, that our reserve at the end of the fiscal year will not exceed five per cent of our budgeted expenditures. To mount a major fund-raising program would put at risk donations that came in late in the year. We are currently attempting to renegotiate that arrangement with the ministry. That will be quite critical to our development of larger-scale thrusts into nongovernment fund-raising.

Mr. Eichmanis: I have one final thing. Has the ministry approved the action plan?

Dr. Marshman: I think I am correct in saying we have had

no formal communication from the ministry on the action plan. We certainly have not had any since the Solandt-Warwick report.

It was their understanding there had not been any official endorsement, although it is also fair to say that, since the introduction of the action plan and since the communication of our advice in that sphere in, I guess, 1979 the ministry has funded, I think, a total of 11 assessment referral centres which are entirely consistent with the action plan thrust. I do not believe we have had official recognition.

Mr. Chairman: It does not appear there are any other questions. I thank you, lady and gentlemen, for helping us out today and appearing before us and, as Mr. Hennessy said, being candid and helpful with your answers.

Dr. Macdonald: Mr. Chairman, we are grateful for the length of time you have given us today. We hope it has been successful in providing answers to the questions you have had.

I assure you also that we will take seriously the comments that have been made by people such as Mr. Breagh in relation to the press releases, to try to see whether we can devise ways of more successfully managing the press than we have done so far.

ONTARIO EDUCATIONAL SERVICES CORP.

Mr. Chairman: Will the committee members hang with us for a minute or two?

We are dealing with the Ontario Educational Services Corp. I have with me now a copy of an order in council dated February 16. After all the recitals, it states that the corporation be continued and directed to transfer on or before April 1, 1984, all of its assets and liabilities to the Ontario International Corp. The second point is that the Ministry of Education, which is the sole shareholder of the corporation, make application as soon as possible after April 1, 1984, voluntarily to dissolve the corporation under the appropriate provisions of the Business Corporations Act.

It is now rolled in; that is, signed by the Lieutenant Governor himself. What are your wishes with regard to dealing with the corporation? Shall we simply dispense with the hearing on Thursday or shall we continue with it? Do you wish to put this forward to September and deal with the Ontario International Corp. as rolled in with the assets of the Ontario Educational Services Corp.?

Mr. Rotenberg: I suggest we dispense with it at this time. Maybe our researcher can give us a little advice as to whether it is even worth looking into it in the fall as part of the new corporation or whether we should just abandon it until that corporation comes up in its normal turn.

Mr. Eichmanis: I think it would be worth while to look at the international corporation, because it will have the two--

Mr. Rotenberg: Then we should not commit ourselves to the fall but simply put that on the list of things to be considered some time in the future.

Mr. Chairman: Agreed? Fine.

The committee adjourned at 4:41 p.m.

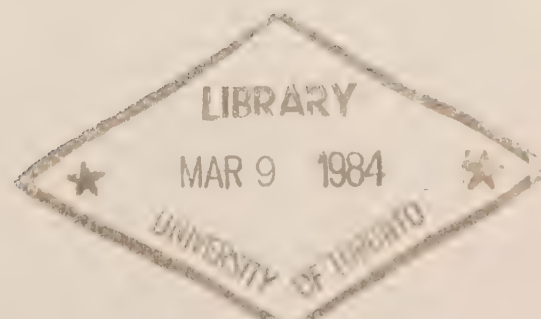
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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
INNOVATION DEVELOPMENT FOR EMPLOYMENT ADVANCEMENT CORP.

WEDNESDAY, FEBRUARY 22, 1984

Morning sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

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Substitutions:

Van Horne, R. G. (London North L) for Mr. Edighoffer

McLean, A. K. (Simcoe East PC) for Mr. Sheppard

Clerk pro tem: White, G.

Staff:

Eichmanis, J., Researcher, Legislative Library

Witnesses:

From the Innovation Development for Employment Advancement Corp.:

Chudy, L., Vice-President, Corporate Affairs

Lyn, G., Vice-President, Finance

Macdonald, H. I., Chairman

St. John, Dr. B. E., President and Chief Executive Officer

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Wednesday, February 22, 1984

The committee met at 10:12 a.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
INNOVATION DEVELOPMENT FOR EMPLOYMENT ADVANCEMENT CORP.

Mr. Chairman: Gentlemen, having a quorum in place, and leaving my glasses on to say that, I must note Mr. Breagh seems to be switching smoking utensils. This is the third morning in a row he has come with different utensils to smoke.

Interjections.

Mr. Chairman: We have before us this morning the Innovation Development for Employment Advancement Corp. Could their primary spokesman identify himself and identify the other people? Then if you have got an opening statement of some kind, either oral or written, you could give that.

Mr. Macdonald: Mr. Chairman, I am Ian Macdonald, the chairman of the board of directors of the IDEA Corp. On my right is Dr. Brian St. John, the president; to his right is Mr. George Lyn, who is the vice-president of finance; and to my left is Mr. Loren Chudy, who is the vice-president of corporate affairs.

Mr. Chairman: You can carry on with an opening statement.

Mr. Macdonald: Thank you very much, Mr. Chairman. We are pleased to have the opportunity to begin with a presentation to you about the work of the IDEA Corp. In the course of my own investigations, I discovered there are many organizations in the world which share our objectives. However, none shares our particular approach to those objectives. Therefore, we would like to take a few minutes at the outset to discuss our recent history, what we do and what makes us different from any other organization in the public or private sector. After some brief remarks from me, Dr. St. John will outline in greater detail the many activities IDEA Corp. is currently undertaking.

Let me briefly then lay before you the reason for the creation of an organization such as IDEA and the reason for its perceived need. We believe the need for Ontario and the need for Canada to increase its level of technological sophistication has been stated many times. Our international competitiveness, our future economic prosperity and our employment prospects, of course, depend on it.

The problem is that the process of technological innovation is both costly and difficult. A recent study, for example, indicated that about 42 per cent of all new products about to be

launched in the Canadian marketplace are subsequently dropped or withdrawn, and this does not include the many others that are abandoned during the development phase. So, in order to assess the climate for innovation in Ontario, we carefully analysed the many factors restricting the growth of new technologies.

What are the obstacles we have to overcome? What are the difficulties in the path of innovation? Not the least of the restrictions we face is a shortage of capital available for taking high-risk technological developments through the commercialization process. The reason for that is that financing from banks and other financial sources is simply unavailable for that type of high-risk commercialization; therefore, the researcher, the innovator and the inventor often turn to the venture capital community for assistance.

Unfortunately, when we turn to the Canadian venture capital community we find that a great deal of the potential funding within the Canadian venture capital community is attracted south of the border; therefore, the venture capital that is invested in Canada is directed mostly at what we call later-stage rounds of finance, with the result that early-stage research projects are virtually ignored. So clearly one of the hindrances to the Ontario innovator is the shortage of capital for developing his or her ideas into commercial products that will, in turn, contribute to the growth and efficiency of the economy.

In addition, there is another obstacle that is joined with that, and that is, generally speaking, the innovator's lack of experience in knowing how to transfer an idea into the marketplace. We are confronted, therefore, by a serious neglect in the development of our own entrepreneurs. That is the more unfortunate because we all know there is a significant amount of research carried out in this province--as a matter fact, not only in this province but also in this country.

Unlike sometimes the conventional wisdom, we compare very well with many countries in the world in terms of the primary research we do in our hospital research wings and in our government and university research labs, but what is different about our country and our province is that, unfortunately, this research is often not taken far enough and it is not taken out into the world of commercialization. In a nutshell, that is what we are talking about.

The IDEA Corp. was created in response to these needs for stimulating long-term technological innovation and entrepreneurship and to get that research out of the labs and into the marketplace. Our mandate is very broad. Our business is to encourage and finance technological innovation and bring it to commercial development, as I say. Our products are finance, licences and management expertise, our market is the researcher, the inventor, the entrepreneur, and our goal is to combine those ingredients to create new businesses and help existing industries in Ontario.

After the analysis I mentioned earlier, we emerged with a business plan that established IDEA, I must say, as the most significant venture capital investor in the province. Indeed, I believe it brings together the largest pool, actually and potentially, of venture capital yet created in this country.

We could have set up IDEA simply as another major research granting institution. We decided not to do that. Why did we decide not to do that? Why did we choose venture capital as our major approach? I mentioned some of the reasons a few minutes ago. For one thing, we were seriously concerned about the amount of potential investment capital flowing out of Ontario, which is characteristic today and an increasing problem; so IDEA works in partnership with private sector investors to encourage greater investment in this province--in a word, to try to reverse that flow or at least offset it.

In addition, we have decided to focus our attention on the so-called pre-venture capital field which is badly neglected. That is to say, we are emphasizing early-stage research projects that have commercial potential and will result in new products and processes in the marketplace, thanks to IDEA's financial backing.

The important point to recognize is these projects might otherwise lie dormant, remote from industry where the benefits of scientific and technical innovations are best realized. In addition, a major aim in our work in promotion of university research is the development of closer bonds between the universities and industry. Close relationships can be built over the long term and innovative ideas will evolve for the mutual benefit of each.

Also, underlying our attention to venture capital is our strong belief in the need to impose strict commercial discipline on the innovation process. By seeking out innovations to fill real needs in the marketplace, we can better ensure value for Ontario's dollars and true benefit to the Ontario economy. Without this focus on commercial viability, I do not believe that the granting system could boast the same results.

Since approval of our business plan just over a year ago, we have recruited an energetic staff of professionals. Our plans are in motion and we are beginning to see the results of our efforts. I can tell you there is a great deal of enthusiasm in our organization and, as chairman of IDEA, along with the other citizen volunteers, so to speak, on the board, I am deeply gratified by the energetic response of our staff in working towards a common goal.

In addition, the board, the staff and I are working hard at our public education and policy advisory functions which are contained within our statute as well and which I regard as a vital part of our mandate.

To sum up, I want to emphasize the unique role IDEA is playing in a larger strategy within the ministry and within the government to enhance Ontario's economic growth. We are simply

filling a niche where private-sector venture capitalists generally do not operate. At the same time, we are providing a service to Ontario's entrepreneurs by stimulating greater commercial discipline and thought for industry's needs. In addition, we have a significant role to play in the development of appropriate public policy options regarding the advancement of technological innovation.

I like to think of IDEA as a catalyst bringing together researchers with industry, inventors with investors, and new Ontario businesses with the international marketplace.

Finally, I should emphasize that our challenge is a long-term one. We are involved in the long-term restructuring of the Ontario economy and we do not expect overnight results in the broad economic sense. Indeed, we are not in the business of creating jobs for tomorrow. I believe we are for the longer term. We are encouraged by the progress so far and by the acceptance of IDEA Corp. in the financial, research and business communities with which we are relating.

May I now ask Dr. St. John to explain, with the benefit of some slides, in a little more detail our various operational roles and responsibilities, which I think will be helpful to the discussion today by giving you some specifics about exactly how our venture capital funds are structured and, therefore, how we are going about creating this partnership between the public and private sectors.

Dr. St. John: Thank you very much.

Mr. Chairman: Excuse me. Is your microphone hooked into Hansard?

Dr. St. John: It should be. Is it?

Mr. Chairman: Yes, it is. Fine.

Dr. St. John: Mr. Chairman, I want to reiterate it is a pleasure to appear before the committee and to explain our rather complex business plan and the rather complex approach we are taking to this problem.

IDEA Corp., as the chairman has said, is based on the premise that the future prosperity of this province depends on innovation and our ability successfully to commercialize innovation, and on the second major premise that Ontario has all the ingredients necessary to be a world leader in the innovation process.

Ontario is characterized by a number of mature industries, including resource extraction industries, heavy manufacturing and lighter manufacturing such as automobiles and other consumer goods. All these industries require modernization of their production technology and innovations in their processes and we may become marginally involved in assisting this. However, that is more the mandate of the technology centres in the Ontario government--to help existing industries adapt and modernize.

The Ontario economy also includes an effective number of new performers in what we call the emerging industries such as microelectronics and the application of chips to a whole range of products. We are often a supplier to very high technologies such as space technology, some military technology, medical and other technologies based on advances in biological science.

Two fundamental scientific advances have occurred recently which are resulting in an explosion of innovation. One of these is the invention of the microcircuit which allows the emplacement of intelligence in machinery--the chips I mentioned. The other is genetic manipulation, a biological science advance, which enables the creation of new forms of life.

A major support mechanism in the Ontario economy for these emerging industries is the venture capital industry. Venture capital is a relatively quiet industry; the general public knows relatively little about it. It typically operates through investment funds. These invest in risky early-stage projects and go for unsecured equity in those projects. In other words, they do not loan against assets but they will take shares back and have an ownership share in the projects.

Typical projects are high risk and long term in the sense of seeing a payback. Venture capital funds typically look at each of their investments after about three years to see how they will exit it. They usually have a plan in advance. But the usual venture capital fund stays in its investments for between five and seven years before it finally manages to liquidate the investment. Usually at that point the fund is wound up and possibly a new one is constituted. These investments represent an active partnership role and the venture capitalist usually seeks board representation in the company in which he is investing.

In Canada in 1982, 40 to 50 venture capital funds invested about \$80 million. More than \$40 million of that was invested in companies with sales of more than \$4 million, which means companies that have a reasonable track record, a reasonable management in place and can be seen to have some effective role in the marketplace. Less than 15 per cent of this small amount of money was invested in very early-stage startups.

In 1982 the total new capital raised in the Canadian economy was \$9.2 billion. As I said, venture capital represented only \$80 million of that, which is less than one per cent. So early-stage startup companies--there is an even earlier stage which is the completion of the innovations and the targeting on the commercial marketplace--received very little of the capital market of Canada.

IDEA Corp. has been established by the government of Ontario under the Board of Industrial Leadership and Development program. It reports to the Minister of Industry and Trade and has been allocated \$107 million by BILD from 1984 through 1987.

The basic mandate of IDEA is to take technological innovation at its earliest stages and move it through the process to commercial development. By early stage I do not necessarily

mean in the technical sense of very early research, but in its earliest stages in the commercialization process. The ultimate aim is to create jobs by developing a range of new products in the economy that are desired by foreign markets.

A second important part of the mandate is to co-ordinate and bring together the research resources of the public sector with those of the private sector. Canada is unique in the Organization for Economic Co-operation and Development countries in having the largest proportion of its research going on in the public sector rather than the private sector. A particularly Canadian problem is attempting to bring that research from publicly funded laboratories, including university laboratories, and turning it into commercial significance in the private sector. The ultimate aim is economic growth and advancement of employment in Ontario.

10:30 a.m.

The business plan of IDEA Corp. focuses, therefore, on what we call the pre-venture capital gap. This refers to the early part of the process when it is necessary to take an idea or research finding with potentially commercial significance and turn it into something of interest to the venture capital community; in effect, to turn it into an investment memorandum on investment opportunity. At the earliest stage, it cannot be seen as an investment opportunity by the financial community.

The second major one, as I said, is the co-ordination of research and the bringing together of the financial community with the researchers and the innovators of the economy.

The guiding principle of IDEA Corp. in formulating the business plan was that IDEA would be self-financing. It would run as a corporation and would attempt to take back some of the wealth generated to fund the activities of the corporation and to renew the process.

The public-private partnership: A basic premise is we will work on market-pull products. In other words, we will seek innovations the market wants. We will not take a product and attempt to push it into the marketplace if there is no evident market demand, but we will seek a market niche and sometimes, having identified a market niche, go and seek an innovation or even fund the development of an innovation to fill the market niche.

The chairman mentioned there were a number of foreign organizations in other countries involved in similar activities. Some of the most successful and interesting of these have operated in precisely this way, by starting with a company and with the marketing manager of a company, saying, "What can you sell?" Once he hears what that man believes is the next product he can sell, they assist the company in developing the expertise to manufacture that product, sometimes by commissioning research and sometimes by licensing.

Therefore, we will have a global outlook for our technology. We want the best technology available in the world to build

Ontario industry and we will seek the technology wherever we can find it in the world.

We will have a global outlook for exports. If the product to be marketed does not have an export market, it will probably not become a major employment generator in the Canadian economy.

The activities of IDEA to fulfil this mandate are in three major roles. The largest and most complex of these is the investment role of IDEA as a venture capitalist and pre-venture capitalist.

A second extremely important part of it is the technology brokerage. It is the marriage of that technology brokerage role with the investment role that makes IDEA a unique organization. As the chairman said, we have not been able to find an analagous structure anywhere in the world.

A third major role is the educational advisory role of IDEA to government as a unique window on the innovation process in the Ontario economy.

The investment activities of IDEA bring IDEA into connection with universities, individual private inventors, corporations and research centres. By research centres, I mean both government-sponsored research centres and the research centres of some corporations which, as any corporate executive will tell you, tend to have a life of their own anyway. In fact, we have had a number of large companies come to us and say: "We are developing products we ourselves cannot commercialize. Can you help?" We intend to try.

The investment activities are in two forms. First, we have created two subsidiary funds for direct investment by IDEA and we have created five subsidiary funds I will get into which we are designing to syndicate with the private sector to lever the amount of capital available and to increase the commercial discipline of those funds.

Direct investment by IDEA: The two subsidiaries are IDEA Research Investment Fund Inc. capitalized at \$13 million--this is a special fund I will spend a little time on in a minute--and IDEA Innovation Fund Inc., also capitalized at \$13 million.

The research investment fund is a very special fund in the IDEA network. This is our pre-venture capital fund. With this fund we go to the universities of the province and to foreign companies. We may go to the research centres of large companies and to individual private inventors. We will finance as necessary the completion of the research, searching out the patentability and the patenting of a technology, market analysis of the technology, financial and cost analysis of it, finding appropriate entrepreneurs to put together with the technology, and ultimately the creation of a business plan, an investment opportunity for venture capital.

Accordingly, therefore, the research investment fund seeks out innovation and ideas at the earliest stages and the product of

the research investment fund is ultimately a business plan or an investment memorandum.

We have done a number of deals and we are looking at a large number more. One of the most interesting is at Queen's University where we are funding the development of a new drug based on a natural material found in the human heart called cardionatrin, which appears to be the body's natural hormonal control of blood pressure.

To say the research investment fund is capitalized at \$13 million is somewhat misleading in that, since the research investment fund will sell its products to the other funds we will be discussing, a great deal more money can be flowed through the research investment fund into early-stage innovation than the \$13 million indicates.

It is a revolving fund. The \$13 million is our estimate of the amount of money that will actually be out there working when the fund peaks, but as it sells its business plans and the innovations for the venture capital funds, it will recoup capital and reinvest. A great deal more than \$13 million can go through that fund.

The IDEA Innovation Fund Inc. is a wholly owned subsidiary venture capital fund which we will use for temporary investment in activities that are waiting to be picked up by the syndicated venture capital funds or to do investments we believe should be done but which we have been unable to convince syndicated investment funds are suitable business opportunities. These typically will be investments in venture capital plays that are at slightly higher risk or longer term than the private sector finds acceptable even after it has exited from the research investment fund.

We have a number of investments in this fund. Several more are about to be done. One of them, RMS Industrial Controls Inc., is a British Columbia company that came to us and said: "We cannot get our people out here. We need to expand in Ontario and we are going to be building a production plant, based on technology that is licensed out of McMaster University."

The five technology funds of the IDEA Corp. are the funds that will be syndicated with the private sector. I will explain the syndication process as we go through and the stage of each of these negotiations at this time. These syndicated partnerships with the private sector will involve IDEA putting in about 25 to 30 per cent of the money of the fund, obtaining seats on the board of the fund and on the executive and investment committees of the fund and then referring a flow of projects to these funds from the research investment fund and from other sources. IDEA, as a very visible entity, is attracting a heavy flow of potential investments from sources around the world that wish to develop commercial opportunities here. These will typically be referred into the pool of capital in the syndicated funds.

To run through them, since there are five of them, the IDEA Biotech Fund is the Biological and Medical Technology Fund Inc. We

are in the process of completing the documentation on a syndication for what we are tentatively calling the Medicus fund. It will be a \$45-million fund in which the IDEA participation will be \$15 million. This fund will concentrate on medical technology, diagnostic technology and medical instrumentation in particular, although there will be some activity in pharmaceuticals. It will also take a broader look at genetic engineering and biological technology that can be commercialized, particularly from Ontario universities.

The IDEA Chemical and Process Technology Fund Inc., called the IDEA Chemtech Fund, is in the process of negotiation for a fund we are calling the Agmen Venture Fund. The total planned syndication is \$21 million. The IDEA participation would be \$7 million if this fund is completed. The Agmen fund will concentrate on food, agricultural technology, and chemical and processing technology. We have identified a potential major corporate partner that has indicated an interest in putting between \$5 million and \$10 million in such a fund. This one is very much at the early negotiation stage but we believe the pieces are around, and we have seen a number of investment opportunities around to put together a fund in this area. We are hopeful that possibly within a couple of months this one will be signed.

The IDEA Machine and Automation Technology Fund Inc. has committed \$6 million to a company called Ansam Synergistic Technologies Inc., which is in the process of raising money on the street and is syndicating. There is an error on the slide. The total syndication for Ansam should be \$16 million instead of \$21 million. I am sorry about that.

Ansam will concentrate on industrial automation technology. For example, software control systems for flexible manufacturing, robotics technology and other automated technologies for the manufacturing industry is a joint venture between two of our funds, simply because the business plan of the investee fund seemed to fit two of them, between the chemical and process technology fund and the machine technology fund.

We have committed an investment of between \$6 million and \$10 million to a new fund being raised called Derlan Industries Ltd. The total syndication size of Derlan will be somewhere between \$15 million and \$30 million. Derlan will concentrate on manufacturing companies and the introduction of new products and new technologies to those manufacturing companies in which it will invest.

At the moment, Derlan is in the stages of final documentation. Sufficient money has been attracted to it that it should be able to close within a few weeks. We are now going through the documents that the lawyers have sent out and everybody is going through the normal arguments about this clause and that clause. However, we are hopeful the documentation will be complete within about two weeks and the closing will occur.

10:40 a.m.

Finally, the IDEA Microelectronics Fund Inc. has committed

\$15 million to a fund being put together by the Cavendish group, Cavendish Ventures Ontario Ltd. The total syndication size of the Cavendish fund will be \$60 million. It is structured as a partnership as opposed to a corporation at this time and is currently in the process of raising money.

I will be providing a summary of syndications here, the IDEA commitments to date, either committed or negotiated: Cavendish, Derlan and Ansam are committed on paper. We anticipate the Medicus fund will be presented to our board meeting on March 9, I believe. If it passes board approval, that will be committed. The Agmen fund is in earlier negotiation and is not yet committed. We have \$53 million, therefore, either committed or in negotiation--there is a mistake in Ansam there; it should read \$16 million in Ansam. The total capital pool gathered together in this interconnected network of funds to which IDEA will be referring projects and working closely with to further its mandate is \$172 million.

There is one IDEA subsidiary fund in which there is no activity right now. This is the IDEA Information Technology Fund Inc. in which we have targeted \$13 million. At the moment, we do not have a syndication proceeding in that fund, but we are working on it. We are considering a number of possibilities. The information technology fund will focus on information technology, as the name suggests, particularly on computer software with a particular interest in the computer-aided education field, which we think is potentially a major export market for Ontario to address.

The second major function of IDEA Corp. after investment, which is crucial to the success of this company and to the demonstration that much wealth can be generated in the Ontario economy in this way, is the technology brokerage function. By technology brokerage, we mean licensing or transfer of technology, the exchange of intellectual property between the innovators and the originators of the intellectual property and a potential user such as a manufacturing company.

IDEA will search worldwide for technologies that can be licensed into Ontario and into industry, particularly the industries in which we are investing, to strengthen them and give them a new expanded product base. We see the technology brokerage function as being an important addition to the venture capital process which heretofore has not existed in venture capital in Canada.

We believe once a good entrepreneur has been identified and once he is financed in a company, he can frequently handle more products than his company has on its plate. If we can bring him more potential products, we can more rapidly increase his growth and the stability of his company in the marketplace.

Further use of the technology brokerage function, which is extremely important, is as an outlet to the research investment fund. Frequently when we start an investment in the research investment fund, for example, something like the cardionatrion project at Queen's I mentioned, it will become evident during the research that you cannot create a stand-alone venture capital

opportunity out of that technology for a whole range of reasons such as the size of the competition, the marketing necessary or whatever. Therefore, the logical approach is to license the technology from the university and IDEA jointly as partners in a company that already has the capability to go into rapid production and to market the product.

We see a major role of that technology brokerage licensing function as one of the exits, as we call them, to the research investment fund and to the university research of Ontario. Where possible, of course, it is more attractive both financially and in terms of employment generation securely within the province to put it through the venture capital process.

So you can see the exits for the research investment fund, the early pre-venture capital activity, are either through licensing or through one of our syndicated venture capital funds or for the stand-alone IDEA Innovation Fund or finally to a joint venture with a venture capitalist outside who is not related to us. That is always possible, although it is an unlikely situation at that point because we have so many much closer to us that we should be able to place virtually everything we get into.

Finally, the third major role of IDEA is the educational advisory role. What is being created in this company is a unique window on the innovation process in the Ontario economy. We believe that window should be used by government in both the development of educational policies and other policies associated with innovation.

We will analyse policies that have been discussed internally or that can be seen in foreign countries for stimulating innovation, and will provide advice to the minister on policy options for stimulating innovation in the Ontario economy. This reflects one of the clauses in the act specifically directing us to do this.

Further, we will provide information on technological activity in the province that might not be readily visible through the normal channels. This reflects the depth to which the venture capital process reaches down into early-stage innovation.

We can see and have seen the development of new material, new widgets, new chemical processes, new chemicals themselves, new pharmaceuticals which are not common knowledge and are not being published in the newsletters because they are still at early stages in laboratories. Some of these are extraordinary in their potential impact on other industries and we believe the early warning knowledge of this that the venture capital process affords us is an extremely important element in providing policy advice to the government.

In particular, we intend to develop further liaison with educational institutions to respond to the emerging skill requirements these new technologies will place upon the economy.

In view of what we are assuming is the particular interest of the procedural affairs committee, I would like to touch briefly

upon the management structure of IDEA and how we intend to make all of this work. IDEA is structured with a board of directors and through its chairman reports to the Minister of Industry and Trade. The president reports to the board of directors and has four vice-presidents reporting to him in charge of divisions of the company. You have met two of them, Mr. Chudy, vice-president of corporate affairs and Mr. Lyn, vice-president finance. Barry Schacter, not here, is our vice-president marketing and Dr. Ignace Krizancic is our vice-president technology.

The corporate affairs department is in charge of corporate administration, communications, the information centre and library, which is a very major activity because we are getting a constant flow of proposals averaging about 20 a week right now, and in charge of the policy analysis and development role of the company.

The finance department is in charge of financial analysis of investment proposals, the monitoring of investment performance of the syndicated venture capital funds as well as of the direct investments, and control of IDEA's internal financial affairs.

The marketing department is in charge of the assessment of the market potential of innovations submitted to us. Every innovator comes to assure us that the world wants his product and will buy it in great numbers. We believe in getting out there and finding out how true that is likely to be, and in particular examining whether or not the market, which might well want his product, can afford his product, because the cost analysis of an innovation, relative to what the market will pay, is probably the single most important reason innovations do not fly in the commercial marketplace.

In particular, we have seen we have a substantial role to play in developing and providing marketing advice to portfolio companies we have invested in as to how to improve their marketing strategy and where to be careful of their marketing strategy.

The technology department assesses the technological merit of proposals--in other words, will it work, is it a perpetual motion machine, and so on?--monitoring technological progress in research proposals particularly in the research activities in the university. Are they finding what they thought they would find? Is the project still moving along or has it become bogged down? Very frequently a research project will become very substantially bogged down and even the researchers in the project will not fully recognize they are simply not going to reach the end. We believe we should monitor that progress very closely on the outside to avoid wasting money chasing technology that simply cannot be developed.

In particular, we try to identify licensing opportunities where they exist. Where a market niche has been identified in which licensable technology would be useful, the technology department will assist in identifying licensable technology that may be available either from within Ontario or from outside it, to get it into the business in question in Ontario to strengthen its product mandate.

In summary, IDEA believes the future prosperity of this province depends on innovation and our task is to help it succeed commercially. Thank you very much.

Mr. Chairman: Thank you. That concludes your initial presentation. Is that correct?

Dr. St. John: It does, thank you.

Mr. Chairman: Perhaps I might lead off with a couple of questions arising out of that. Your first fund, could you clarify why there were two names on the fund? I am a bit confused on that.

Dr. St. John: Sorry. The Derlan Industries Ltd. fund proposes investing in secondary manufacturers that need new products and strengthened technology and--

Mr. Chairman: No, I do not think that was the slide. The slide had a fund name at the top. It might have been "IDEA Chemtec Fund," and then it had another fund name down below. I was wondering why those two--

Dr. St. John: Was it the Agmen Venture Fund? The fund name at the top is the IDEA Corp. subsidiary which will handle that investment. I am sorry, I should have clarified that. The fund below is the syndicated fund being put together in which the IDEA fund will own maybe one quarter to one third.

Mr. Chairman: You mentioned partnerships. Are these limited partnerships or general partnerships that you put together?

Dr. St. John: The one that is a partnership, the Cavendish fund, is a limited partnership structure. We will be both a general partner and a limited partner in that fund. We will be part of the general partner that manages the fund and therefore be in a position to assist in directing its investment, and we will put cash into the limited partnership as a limited partner.

Mr. Chairman: I cannot call it voting, but let us use that untechnical term; first, what are the voting rights when you are a general partner in that fund, for example; and, second, what would the termination provisions be? Can you bail out at any time?

Dr. St. John: I would like to come back to that question because venture capital funds typically are difficult to get out of in the middle of the cycle, you virtually have to find a replacement, and we can explore that a little bit.

As far as the voting rights are concerned, what we have sought in each of these funds and what we have been successful in negotiating in each of these funds are seats on the boards of directors, seats on the executive committee, which must vote unanimously for all investments, and a number of special rights, such as first-refusal right on the divestment of any activities the fund is in. So if the fund is selling a project and we do not like the destination of its sale, we have a first-refusal right to match the price, pick it up ourselves and then perhaps divest it.

Mr. Chairman: Would that be so for the corporations as well as that partnership?

Dr. St. John: Yes. The partnership has been structured with a division of power so that it is identical, in terms of the provisions, to the corporate structures.

Mr. Chairman: When you take equity shares in these corporations, do you ever take 50 per cent or more?

Dr. St. John: In the venture capital funds, we do not expect to be over 33 per cent. They range now from 25 per cent to 33 per cent.

Mr. Chairman: I noticed that was your financial contribution. The voting shares go in proportion to the investment, is that correct?

Dr. St. John: Yes, typically, with the exception of the limited partnership structure, where the general partner in fact has a different voting share structure because the limited partners have no votes. I believe, again, we are 30 per cent of that one, but the way the unanimous shareholders agreement is constructed, we have special powers to ensure that the fund does what we want it to do.

Mr. Chairman: I guess in that latter one, with, as you say, unanimous shareholders provisions, you have ultimate control over not taking off in ways you do not want it to take off.

Dr. St. John: Yes, that is right. We have an ultimate control or say over what the fund can and cannot invest in. Once it has made the investment, we are simply a minority participant on the board for the day-to-day management of the fund and normal decisions with respect to that investment and the management of that investment. Then, on exiting from the fund, when the fund is selling an investment, we have a first-refusal right on divestitures.

Mr. Chairman: That is divesting and the use of the funds. Do you have control over the situation where you have invested in a winner and the board of directors, of which you are a minority, decides to up all of the salaries and bonuses to \$1 million a year for the president of a corporation? What control do you have over that?

Dr. St. John: Do you mean a winner in terms of the fund or a winner in terms of a company underneath the fund?

Mr. Chairman: The product. The joint venture is a winner. What control have you over that corporate structure?

Dr. St. John: I am sorry. We are looking at two stages here. On the venture fund itself it will be, of course, a management agreement between the management of the venture fund, meaning the president in this case and the vice-president of the venture fund itself.

Take Agmen, Ansam, the Cavendish fund, something like that, there are always management agreements between them and the fund and the modification of the management agreement requires shareholder approval at some level such as 75 or 80 per cent of the shareholders. We are caught at that point.

Mr. Chairman: That approval ratio is always higher than your nonholdings?

Dr. St. John: Absolutely. Coincidentally, it always catches us.

Mr. Epp: Mr. Macdonald, you indicated earlier that you were encouraged by the progress so far. Could you tell me in more concrete terms the kind of progress you have had? We have seen a lot of things on visual display here but I want to know more precisely the kind of progress you have in mind.

Mr. Macdonald: I guess my reference to progress would include at least three things. First of all, we recognized at the beginning that we were tackling an extremely ambitious task here which would come about only if we were able to attract the kind of people who had the knowledge and skill to bring it off. That has come about and it continues.

The second was whether we would be able to have the kind of reception that would place us in contact with the community of innovators, inventors and researchers or whether we would find that we were not an acceptable partner. This has developed at a rate at which our main problem is to try to contain the pressures on us to deal with the multiplicity of proposals that are before the corporation at this time.

The third was to see whether there would be a reception for the kind of partnership process we had decided on, and that is in the various venture funds, which Dr. St. John has described and which at present are either on the street or in the process of concluding the institutional arrangements and details.

Mr. Epp: Let me go over all three of those, then. What was your ambitious task?

Mr. Macdonald: We were asked, as you know from the act, almost to play the role of technological messiah in Ontario. That is why we hired someone called St. John to help us in this task.

Mr. Epp: Have you got St. Peter and St. Mark coming along?

Mr. Macdonald: We have them hidden away in the back rooms.

If you look at the objects--

Mr. Epp: In the task you have you may need some religious help.

Mr. Macdonald: Yes. Clearly the IDEA Corp. alone is not

going to transform the Ontario economy and take us through the next two decades of the technological revolution, but we felt we had a very important part to play in that process, and it is in this sense that we have felt good about the beginning we have made. We think we can play our part.

Mr. Epp: Mr. Macdonald, you have been in public service. Now give me some concrete things. Tell me what you have done.

Mr. Macdonald: Let me just carry on with the first part of the question, which was the perspective. We were asked in a five-year period to invest in a sufficient number of commercial processes to make this a self-financing corporation within five years, so that at the end of that time, if the government deemed that it wanted this corporation to continue, we would have the self-generating financial capacity to sustain ourselves.

I am not trying to throw this back at you, but the point is that the bottom line in whether this corporation is successful or not comes after five years when one says, "Has one reached that goal of being self-generating?" We will if along the way we have been successful in producing enough winners. In this business there are going to be winners and losers, and one has to hope there are more winners than losers.

A similar organization, the National Research Development Corp. in Britain, existed for some 30 years or more, and it was successful largely because of a major pharmaceutical discovery, which covered all of its losses. We hope our extremes will not be quite that well drawn.

You want, finally, to know meanwhile what kinds of things we have done that give us some confidence we are well on the road and we are going to meet this objective within the five-year period. Brian, you might want to pick up from there and elaborate on some of those particulars.

Dr. St. John: The major activity, of course, is the syndication process of the venture fund, and on that point we are attempting, as you can see, to syndicate five or six venture capital funds simultaneously. To my knowledge this has not been done before in the Canadian economy.

11 a.m.

We have done a number of direct investments. We have two direct investments out of the research investment fund. There are eight more currently under active review, and I expect a couple of them to be closed soon. We have two direct investments in the innovation fund and we are looking at two more.

We have received in excess of 350 proposals in the company. This ratio is normal in the venture industry. Typically venture capital invests in about two per cent of the investment proposals that come to it and of those, all of which are chosen as big winners, 80 per cent usually do not make it in one way or another. We are anticipating the investment rate of the company will go

up substantially when there are six or seven IDEA affiliates investing simultaneously as the syndication process is completed.

Mr. Epp: As to using the innovation fund--you have two projects; can you be more specific? Is this information public?

Dr. St. John: It has been in the annual report.

Mr. Epp: Can you be more specific?

Dr. St. John: As to what they are?

Mr. Epp: Yes.

Dr. St. John: There was a small company called Ferritronics we invested in last year, taking \$200,000 in preferred shares. There is a company I mentioned specifically, RMS Industrial Controls, to which we have lent \$650,000 on an interest-bearing loan with the first-refusal right for equity financing. We have been working with them since. This is their timetable in putting in place an equity financing package which probably will involve \$2 million or \$3 million.

If one of the venture capital funds we are syndicating is up and ready, we will turn the investment opportunity over to them as a way of instantly syndicating it. If it is not, we will attempt to find some partners for direct investment.

One of the reasons we are going with syndicated funds is that by spreading the risk in this way your reach is much greater and, although it has been an enormous job to try to syndicate five or six venture capital funds, it is still much easier than syndicating 100 or 150 small investments which will be the net effect of the process over five years.

Mr. Epp: What are the criteria you use in determining who you are going to invest with from the standpoint of their location in Ontario? Are you investing with anybody outside Ontario on the promise that eventually they may create jobs in Ontario? What are the criteria you use?

Dr. St. John: At the moment, our criteria have been basically driven on what we call a reactive mode. The day I joined the company there were 60 proposals waiting for me and we have not looked back. Every time there is publicity about the company, the flow of proposals increases dramatically.

You may remember an article in the Toronto Star that said, "If you have a better mousetrap, bring it to IDEA." That was about a month ago. We had 40 calls the next day and it did not slow down for a week. It is amazing what you can do with mice. It is amazing what a laser does to a mouse.

Seriously, because we are reacting to where they come from, we are not yet--we hope we eventually will be--in a position to get proactive and try to put something together. People are coming in at a heavy rate and they come from wherever they happen to be

located. We will, of course, consider proposals from anywhere in the province.

We have not done an investment outside the province, although I mentioned RMS is a British Columbia company. It is now established here. It came to us and said, "We are establishing here based on technology at McMaster." That seemed to be logical. We have looked at a couple of technologies where we have seen foreign venture capital backed companies, two in the United States.

Several have come to us voluntarily from Europe which have said, basically, "If you can help us by doing market and financial analyses to help identify partners and so on, we would be delighted to site our future growth or a large part of it in Ontario." Whether that investment would be into the foreign company and then back here or directly here and so on is in part a matter of negotiation between the partners. No such investments have occurred yet, but some of them look extremely attractive.

Mr. Epp: Perhaps you or Mr. Macdonald would like to elaborate on the steps you went through in getting involved in this Queen's University project you cited earlier to give the committee a better idea about the process you go through.

Mr. Macdonald: I think that is a good example.

Dr. St. John: It is a good example. I expect I should comment, as is very clear, we are early in our development in a complex process. I expect this process to change.

What happened in the case of Queen's and what is currently happening is we have contacted all the universities of the province. Because of their size compared to us, we are typically going through their offices of research administration, or vice-presidents of research, or whatever structure they have, asking, "What do you have?" They then perhaps point to a faculty member who has come to them saying he needs help.

In the case of the Queen's University project, the researchers perceived they were close to a breakthrough in analysing the structure of cardionatrin, which is a natural material developed in the heart muscle. They perceived they needed funding rapidly to try to complete the analysis of the structure and to get a patent out on it.

They also were very clear that they perceived a large number of major research labs around the world were working in the same direction and that time was of the essence. They asked if we could help. We made the commitment to invest last summer and the investment level there is about \$800,000.

They have successfully unravelled the structure and filed a patent, as have three other laboratories in the United States, almost simultaneously. Who wins the patent race we will see eventually, but we believe it is a major breakthrough.

To go back to your question of how the process works, we went to the research administrations and they directed us as to

which research issue would come to them. In some cases we have heard directly from university professors who have come to us, and this will happen increasingly as we raise our profile in the universities. We will do this with pamphlets and presentations perhaps. We have made a number of presentations to them.

However, one of the problems is there is so much out there that requires analysis. The analysis of these projects is arduous and frequently it results in the unfortunate discovery that the innovation they were so keen on has already been made elsewhere.

We want to control the inflow of these ideas to a manageable extent if we can. There was one at an Ontario university, for example, where we spent nearly three months analysing an extremely interesting medical preparation only to discover that patents on it had been published in Europe. It took a long time to track that down, because there were key words under a different title. In other words there was no point--

Mr. Epp: Who tracks it down? Does your research track it down?

Dr. St. John: Our research tracks it down.

Mr. Epp: Do you require that of the company?

Dr. St. John: No. We are dealing here with a university professor and the university administration does not at the moment have the resources to track that down. Our technology department basically contracted a patentability search with a major patent firm. They take a quick and dirty look at the Canadian and US patent systems and then dig somewhat longer. It takes longer to dig into the European patent systems.

In this case it had been filed in Europe and was published as a German patent application. The Belgians issue a patent virtually immediately; the Germans publish the application; the British have what is called a provisional patent, so one can get earlier access if it starts there. They have up to a year under the international patent convention in which to file in the United States, so there was no sign yet in the Canadian or US marketplaces.

That is illustrative of the sort of difficulties one frequently gets into. It was a very attractive innovation but unfortunately it will not belong to us.

Mr. Epp: That is the one at Queen's?

Dr. St. John: No, this is the one I mentioned at another university.

Mr. Epp: What about the one at Queen's? You just started on those steps. They came to you?

Dr. St. John: They came to us, yes.

Mr. Epp: And then you went to the board?

Dr. St. John: Yes. We negotiated an investment arrangement and passed it through the board--in this case the research investment fund. Then we made the \$800,000 commitment.

Mr. Epp: Let us assume they strike it rich--they get something that is marketable. What agreement do you have with the principals as to the share IDEA Corp. is going to reap from that investment?

Dr. St. John: We have an agreement that foresees an early repayment of our capital investment from any funds that are attracted to the project. We do not know whether or not it will be a sale of technology or a licence of the technology. It is probably going to be a licence of the technology.

The agreement basically stipulates that we and Queen's must agree on the licensee in that case and there will be a rapid repayment of the capital invested by IDEA. Then there will be a split of royalties in the future, however long it goes.

Mr. Epp: Who do you negotiate that with? Do you negotiate with the professor who is doing the research or with Queen's or jointly? How do you work with the universities?

Dr. St. John: In the case of Queen's University, it was with their research administration. The policies of the universities of Ontario vary widely on this.

Historically, most universities in Canada let the university professor have rights to any research developed. Increasingly, universities are now asserting rights to claim either direct or partial ownership of technology developed within their walls. They are creating offices in their administrations to handle licensing out and negotiations with the private sector. But wide variation still exists. Frankly, we try to seek the advice of the university administration as to how they want to go.

Mr. Epp: Have you any at York?

Dr. St. John: No. We are looking at a number of them from York.

Mr. Epp: How about the University of Waterloo? That is in my constituency. Do you have some there?

Dr. St. John: We have looked at a number at the University of Waterloo. That university is one of the most advanced in the province in developing its licensing out and innovation development capability with the centre.

11:10 a.m.

We are deeply in negotiations with the centre down there to do certain things jointly so that we do not duplicate their activities, particularly in the area of early-stage inventors. We have not at the moment placed an investment in Waterloo, though.

Mr. Epp: Talking about the University of Waterloo, they have an innovation centre there.

Dr. St. John: Yes.

Mr. Epp: It is funded by the federal government. There have been approaches to the provincial government about getting the provincial government involved. In fact, I was involved in one meeting to that extent. Have you people looked at that at all?

Dr. St. John: We are in the process of negotiating a joint venture arrangement to work with them on assessing the inventions that are brought to us on a referral basis, and we will subsidize the funding of that.

Mr. Epp: So that will be a joint venture with the university and with the federal government?

Dr. St. John: With the Canadian Industrial Innovation Centre, which I believe is a stand-alone vehicle. The federal government does support it. I do not know its exact relationship to the university. It is not part of the university; it is separate. They have skills and expertise, and we want to use them.

Mr. Epp: There seem to be some very good ideas coming out of there and some very profitable businesses.

Dr. St. John: That is right. I very much expect we will increasingly work with them. We are developing the relationship now and we will be referring projects to them. If the projects we refer to them look commercially interesting, we will be interested in taking them further. I hope they will also refer projects to us as they service projects that are of commercial significance.

Mr. Epp: I am not sure whether there is any validity to this, but I heard that you people are involved in some kind of franchise operations. Is there anything of that nature?

Mr. Macdonald: Not a McDonald's franchise--wrong spelling.

Mr. Epp: This was a Burger King. But are you involved in any kind of franchise operation? I heard this and I just wanted to ask.

Dr. St. John: The simple answer is no, not that I am aware of. The only thing is that we have received extraordinary proposals, needless to say. Sometimes people come to us, because of the breadth of the name "innovation," with things that are simple business innovations, such as, "I have got an innovative idea for franchising hamburgers." Of course, we explain to them what our real mandate is and that is the end of it.

We may have had applications on that basis, but no, there is nothing I can conceive of that that would mean.

Mr. Epp: I just want you to elaborate a little on what kind of information you make public. When somebody comes in and asks for some form of assistance, usually it is money. Is it sometimes strictly research or something you might do for a corporation, or is it exclusively money they ask for?

Dr. St. John: As a matter of fact, increasingly we have perceived that a major role we can play is simply to give advice. We have had people come to us and say flatly at the beginning, "I do not want money; I want to know what to do." We intend to try to respond to that by providing a more effective advisory service.

If I can use an example, I was standing by my secretary's desk one day when she was away. The phone rang, I picked it up and it was a gentleman who had developed an innovation. I guess it would not be fair to him to go into great detail on it. He had spent \$175,000 personally developing something. He did not need money, but he did not know what to do next. He did not know anything about patenting; he did not know anything about joint ventures or about the kind of business that could be necessary.

I described to him a little bit of how the patent system works, what it costs to have a patent search and how to find a patent lawyer. Then I gave him the advice that if it is patentable, you go one way and you have got to protect it--you can license it. If it not patentable, you should go a very different way because anybody can steal it, basically.

I think increasingly we could play a major role there in simply providing advice and guidance to people on how the system works.

Mr. Epp: I want to get into something else for a moment. The information our researcher presented to us indicates some of the ways you people have spent or allocated the money. In 1982-83 it looks as if you have allocated or spent \$11.7 million.

Dr. St. John: There was a request from the Board of Industrial Leadership and Development for that much, yes.

Mr. Epp: For 1983-84, it is \$35 million; for 1984-85, 30.4 million; for 1985-86, \$21.5 million; and for 1986-87, \$8.4 million, for a total of \$107 million.

Of that, for the year ending March 31, 1983, you had total assets of \$11,087,000-plus and fixed assets of \$44,000. Looking further down here, the salaries and benefits were \$431,433 for that year. How many people would benefit from those salaries?

Dr. St. John: How many people on staff now?

Mr. Epp: Yes, during that fiscal year 1982-83.

Dr. St. John: Oh, during 1982-83?

Mr. Epp: Ending March 31, 1983.

Dr. St. John: Do you know how many were on staff at March 31? I am sorry, I am trying to remember from annual report. I think it was about 13 or something like that.

Mr. Chudy: We did provide information to the researcher on year-end numbers. I do not have that with me.

Dr. St. John: It is in the annual report. It was stated at that point. We anticipate a total staff load going up to something under 50, that number being based on the labour intensive aspect of this pre-venture capital role. Only a few of the employees, the senior executives, would be associated with sitting on the boards of the funds in a normal venture capital holding company style. But the venture analyst level of the company is the sort of level that increases the staff number.

Mr. Macdonald: There are 37 on the staff now and that is a fair buildup from the 1982-83 year end.

Mr. Breaugh: Are you still finding you hit the 40 to 50 complement that is mentioned in your annual report?

Dr. St. John: It looks likely right now based on the load we have.

Mr. Epp: I am told there are 12--that was last year--to March 31, 1983.

Can you elaborate on what is involved in consulting and legal fees? Are these professional consultants you hire on a per diem basis or are they firms you have a contract with, a retainer? And the same goes with lawyers and so forth?

Dr. St. John: We have a number of professional consultants we have hired to assist us in the business planning process, the syndication process, the designing of the funds, and in assessing early-stage pre-venture capital opportunities. Consulting and legal fees also include the legal fees for the preparation of documents for the syndications and include recruitment expenses, for example. It is quite a grab bag. There are some contracts in that for assessing technology, although at this early stage in the company's evolution there had not been that much of it at that point.

Mr. Epp: What is the highest fee you have paid to an individual, either a lawyer or a different consultant, on a daily basis?

Last week we had in here a lawyer, representing some corporation, who was getting \$1,000 a day for going to court. Do you people pay anybody \$1,000 a day or \$800 a day.

Dr. St. John: We retain a major legal firm and pay their rates as they negotiate.

Mr. Epp: What are the highest rates?

Dr. St. John: I cannot remember precisely the rates of the most senior partners of that firm. I am sorry. I can get it for you.

Mr. Epp: Last year there was a lot of consternation when Mr. Macdonald was getting \$800 a day--not you, sir. The provincial government, through the Ministry of Government Services, was paying somebody \$900 a day and people did not get very excited about that and we end up paying lawyers \$1,000 a day. I am just wondering if that is a wise way of spending the public money.

Dr. St. John: In so far as we use major legal firms, they have the rates they charge. We pay no more than anybody else does.

Mr. Epp: And no less.

Dr. St. John: I presume no less, although we might get a volume discount if there is enough to be done.

Mr. Mancini: Can I have a supplementary? You mentioned you retained a major legal firm?

Dr. St. John: Yes.

11:20 a.m.

Mr. Mancini: Do you put out feelers as to who would like to do work for the IDEA Corp.? Do you entertain what we would refer to as bids and try to obtain the most reasonably priced lawyers available who have fairly good reputations? Do you spread the work around, or are you going to keep the work with this one particular firm? I was quite concerned the other day when another agency came in and said they had retained this one firm for the past 11 years and were forking over \$100,000 a year. I was very concerned about that, and I hope that situation is not prevalent within the IDEA Corp.

Dr. St. John: We have not maintained anyone for 11 years, I assure you.

Interjection.

Dr. St. John: There are several kinds of legal work associated with the company. The work that is most spread around is patenting work because expertise in various patent firms vary. You may get one that is very good on chemical patents, another very good on biological technology and so on. In terms of general corporate legal work, because of the extreme complexity of the IDEA business plan, we believe that staying with one firm, particularly while going through the syndication project process, is very much more cost effective than re-educating other firms. It would be my anticipation to stay with one as long as it is performing.

Mr. Epp: What is your location? Where is your office located?

Dr. St. John: At 33 Yonge Street.

Mr. Epp: How many square feet have you got there?

Dr. St. John: About 17,000.

Mr. Epp: About 17,000 for 37 people?

Dr. St. John: It would be about 50. We had to design for the final staff. We also have several small meeting rooms for meeting with inventors and innovators, a board room, a library and general areas.

Mr. Mancini: Did J. J. Barnicke find that space for you?

Dr. St. John: J. J. Barnicke helped. Actually, it was his son Peter.

Mr. Epp: So it ends up it is about 340 square feet per individual. It is something like that. That is pretty roomy, is it not? How much per square foot do you pay?

Dr. St. John: Are you asking for the rate per square foot?

Mr. Epp: Yes.

Dr. St. John: It is \$20 net.

Mr. Epp: That is \$30 gross.

Dr. St. John: No, \$27.

Mr. Breough: Just a modest figure. Do not get all upset.

Mr. Epp: No. I was just trying to check because it is about one third. I am not questioning your amount. I am just saying if it is \$20 net and you add about another half of that for gross. That is why I said \$30. Is that competitive then, because the Toronto Dominion Centre just a few years ago was \$15 a square foot.

Dr. St. John: I wish we were renting a few years ago, I assure you. Things have gone up very dramatically. First Canadian Place is about \$40 a square foot right now. We checked repeatedly through the process of locating space with the Ministry of Government Services about recent renewals for other government offices and found we were very competitive. In fact, we are by no means the highest around. That is typical of space these days.

Mr. Epp: Is there a lot of space in Toronto?

Dr. St. John: There seems to be a good deal developing because a number of buildings are now being finished, such as the new Sun Life Centre, which were started pre-recession. Subsequent to our moving in, Sun Life Centre and, I believe, University Place were completed.

Mr. Epp: So the projection before the recession was that they needed a lot of space and things have slowed down a little.

Dr. St. John: This is my impression. I am not an expert on Toronto real estate.

Mr. Chairman: Following up on Mr. Epp's question about franchising, is it possible that somebody has confused licensing with franchising because there are a lot of similarities between the two? Is that possible?

Dr. St. John: I am sorry. I have no idea what the franchising idea pertains to.

Mr. Chairman: True, but you are involved in licensing.

Dr. St. John: We are certainly involved in licensing, which is the legal contracting of the transfer of technology between two parties. But on franchising, I do not know what that would refer to.

Mr. J. M. Johnson: Is there an overlap of roles being played by your corporation and Industry and Trade?

Dr. St. John: Only in the most philosophical level would there be an overlap. To my knowledge, the Ministry of Industry and Trade is not involved in extensive equity investing and is not involved in an extensive sense in early-stage innovation development, particularly in the universities and so on.

Mr. Macdonald: If I may just add to that, one thing I looked at particularly closely in the early stages was the relationship with the six technology centres. In fact, with respect to the six technology centres, IDEA Corp. is performing a complementary function in that our job is to try to encourage innovation in the first instance, and their job is to encourage the process of technology transfer into industries and businesses that can benefit from it.

We are in touch with the technology centres and vice versa because of that complementary relationship. We can learn from them a good deal about the perceived needs for technology in existing industry. In turn, we can alert them to where new innovation is taking place or might take place. That is a fairly effective partnership.

Mr. J. M. Johnson: My riding of Wellington-Dufferin-Peel has a lot of small towns and small industries. What would your corporation be able to do to assist those small industries?

Dr. St. John: Again, picking up the earlier comment, at the moment we are still in our early stages in a reactive mode. We are trying to assess what the flow of potential projects will be.

Accordingly, we are responding to what people bring to us from wherever they come. We recently gave a lecture to the assembled industrial development commissioners from the small

Ontario municipalities about what we are doing and urged them to come to us if they thought there was some way in which we could help.

If an inventor or an innovator surfaces in a small town and we hear about him, we would be very interested in talking to him. If a company in a small town perceives a capability or a desire, or if we can induce it to perceive a capability or desire, to adopt new products, we would be very interested in discussing joint venturing with it, perhaps the adoption or development of new products that it can manufacture and sell.

I am sorry, I do not have numbers right here, but a surprising number of the proposals that have come to us have been from small towns outside the Golden Horseshoe area. I know we have had some from Windsor and some from London. We have had a few from the north. We are looking at one in Lakehead University in Thunder Bay. There are a lot in the Ottawa area. There is a regular flow of projects, some of them quite interesting projects, typically rather small in terms of their potential, but there is a flow of projects from smaller towns, sometimes from straight rural environments.

Mr. J. M. Johnson: If you come up with something, let us say in plastics, you would be inclined to think in terms of large companies since many of the small companies will not be aware of the new process until it was in place with one of its competitors.

How could these small companies get in touch with you? If they knew there was something out there, that is one thing, but if they do not know and something is developed that could assist them, how would they have the advantage of getting in on the ground floor rather than learning of it after it was implemented?

Mr. Macdonald: Before Dr. St. John comments on the means there, if I may, I would like to make a point here that is an opinion of mine at any rate. The important areas for innovation in this economy over the next 10 or 20 years are going to be in the so-called small and medium-sized operations.

The very large, multinational corporations are going to look after themselves or not look after themselves according to their larger objectives. It is in the small and medium-sized operations where the potential, both for employment and for innovation, is very strong. We are highly conscious of that.

Brian, you might talk about the way we are trying to deal with it.

Dr. St. John: There are a number of aspects to your question. First, how do they know about it? We are in the process right now of creating mechanisms. A mechanism to inform a range of companies of an innovation which we may have found but we do not know where to place is something we are looking very hard at. How you pick the right guy to really take something, who is going to most likely be successful, is a fundamental question.

If you have a stand-alone innovation and there is no obvious entrepreneur attached, most frequently the person bringing the innovation to you has pretty strong ideas of whom he does and does not want to deal with. Since it is his property, we naturally defer unless we think he is being unreasonable.

In the case of commercializing through very large companies, though, it is striking that we have had a number of large companies come to us--I alluded to this in the slide presentation--saying, "We are generating products we cannot handle."

11:30 a.m.

Large company research laboratories generate potential products outside the mandate of the large companies with tremendous frequency. In fact, a company such as General Electric publishes volumes of licensable technology, which is simply too small or outside its mandate. So you have to be very careful in going to a large company with an innovation to be developed. There is a very strong "not invented here" syndrome in the large companies. You will frequently find they have lots of similar stuff they are not moving on. It is not a logical outlet for a lot of technology. The small and medium-sized companies respond more quickly, and frequently more effectively, than the big ones.

I would typically go to a large company in the case where we have an extremely important, very fundamental innovation that is difficult to protect through the patent system. In this case, if you go to a small company and it is not protectable, when the large guys see what he has got, they simply take it and crush him. So there are cases where I would go to a large company and say: "This cannot be protected by patents. It is going to have to be protected by sheer market power. Can you take it?" Those are very rare situations and would be in the minority.

Mr. Epp: You alluded earlier to marketability, and you just spoke about it again. How do you determine marketability? What kind of research do you do? How do you determine it? Do you do polling?

Dr. St. John: Usually an innovator coming to you has an assessment and has some knowledge of what he thinks the market is, which gives you your first lead. We attempt to position the product in the potential marketplaces it has, and then frequently we do a polling technique by telephone.

For example, a company came to us with a product it has been marketing and has sold to a bunch of customers, and told us an innovation on that product, which would make it dramatically better, would have a large market. We asked them if they were willing to provide their list of customers, which they were, and we phoned about 50 of them and asked them what they thought of the product they had brought. Very high marks came back for it.

Then we asked, with the company's permission, "How turned on would you be if you could see a product that did this, this and this and made little flaming hoops and jumped through them?" and

we got back a direct response from customers saying, "I would be really turned on by that as a product if it did not cost more than this much." The cost factor is crucial to a market analysis. On that basis we can estimate the strength of response relative to the competition and the cost of the product, and we can also make an estimate of how much larger we think the market will get, given the capabilities of the new product.

It is most difficult to do a market analysis if you are dealing with a hypothetical product where none has existed before. In a previous job to IDEA, I got into a product that was absolutely unique in the world. Nothing else like it had ever existed before. It looked like it would have a logical market, but it is extremely difficult to assess that, because you are going to somebody and saying, "If this thing existed that you never dreamed of, would you buy it?"

Mr. Epp: The hula hoop syndrome.

Dr. St. John: That is right. Hula hoops, frisbees and things like that. There are endless thousands of those things people bring out that never sell, and suddenly one of them takes off. It is one of the major questions of industry. How can you tell when there is no analogue to the product? We are struggling with it, as everyone else is.

Mr. Rotenberg: Can I follow up on that a bit? If a small businessman has a new product that is reasonably marketable, but he needs a little assistance in getting it going, assistance in capital and so on, how does he find you? How does he find out that you are available to him? I know there are a lot of guys around who are building better mousetraps and mousetraps are selling, but they may need some help in refining their process and they probably needs a lot of help in capitalization. How do they find you?

Dr. St. John: I do not know, but they are finding us. They are coming in at about 20 a week right now. They are finding us basically because somebody who needs that kind of help starts looking, and we are developing a communications program that makes clear to people in that situation that we exist.

We have been reported on a number of times by publications put out by the Ministry of Industry and Trade that are mailed out to large numbers of businesses. We are, of course, reported on by the press. I mentioned the situation of the Toronto Star article that resulted in all those nice mousetraps the next day. Every time there is a press story on us, there is a substantial increase in the flow of innovations.

Interestingly, the Canadian Industrial Innovation Centre at Waterloo told us it went through the same experience. A major story was done on the centre a few years ago, and it was absolutely inundated for months thereafter. Then it tailed off again.

Mr. Rotenberg: How do you tie in with or compete with or co-ordinate with the Ontario Development Corp., which does similar

things and is also trying to help finance small businesses to get going?

Dr. St. John: We have had discussions with ODC, but there are major differences between us and ODC in that ODC is very much a guarantor of loans and ODC is also not restricted to technology, it is into all kinds of businesses. It has been a little surprise to me that there is little overlap between what ODC seems to be looking at and what we seem to look at because the type of financing is so different.

Frequently, in an early-stage innovation company the last thing he needs is more debt and, therefore, even with an ODC guarantee, the last thing he wants to do is go further into debt. He needs equity capital to support growth, and he will base his debt on the equity he can produce. Most innovators are in debt substantially before they start seeking further funding. They mortgage their houses and all this kind of stuff. The last thing they want is somebody to say, "We will lend you some money."

Mr. Rotenberg: What I mean is, if someone comes to ODC with something that looks as if it belongs to you or vice versa, do you have a referral service back and forth?

Dr. St. John: Absolutely; we refer things back and forth.

Mr. Rotenberg: They refer things to you as well.

Dr. St. John: Yes. They have referred things to us and we have referred things to them. The flow has not been that great because I do not think ODC has typically attracted the kind of people who would be of interest to us and vice versa, although--franchising if you will--there have been things that have come to us that are totally outside the mandate. We will give them a list, verbally or in writing, of potential sources for them to go to and ODC is one of them.

The small business development corporation program is another. We have sent a number of people off to Oshawa to talk to the SBDC people there who are always happy to find potential investments for small business development corporations that are forming. They will put them in touch with each other.

Mr. Macdonald: On the subject of how people find us in the larger sense, I was going to mention that Mr. MacDonell, the Deputy Minister of Industry and Trade, is here. People who would go to the ministry knowing they have a problem or an objective, but are not quite clear where that should end up, would be referred to ODC, or to us or to whomever. As you say, if it comes to us in the first instance and belongs somewhere else, we would try to steer it there.

Mr. J. M. Johnson: On market potential, identification of market opportunities, I assume that high on the list would be goods that are brought into the country, goods that are not manufactured here, and that you would look for some type of assistance to manufacture those products and replace imports?

Dr. St. John: Import replacement: We have seen a number of proposals brought to us that are import replacement products. If there appears to be a substantial business opportunity, or if you are simply expanding the product line of an existing company and thereby creating jobs and employment, we are very interested in it. If the market is relatively limited and the product has already been on the marketplace for some time so that you can see it has a relatively short life ahead of it, we are very reluctant on basic business grounds. I would far rather get into a product with a substantial export opportunity than simply an import replacement.

Sometimes we could develop indigenous resources and then go back to where that product is coming from and sell, but it is tough. Say a United States company is selling here; it is tough to say you are going to start a new company here and then attack them in their home market as well.

Mr. J. M. Johnson: I can think of one example in my riding, the processing of bark, taking the bark and mulching it up for flower beds. Until a couple of years ago it was all imported from South Carolina and California. A company in Arthur is now manufacturing it and I think it is looking at replacing up to \$10 million a year. It is a fairly simple procedure, but for years it had never been perfected for Canada. His problem now is trying to obtain the bark from lumber companies in the north. They will sometimes burn it ahead of selling it to him. Anyway, that is another problem.

I am interested in this Agmen fund, agriculture; what is that?

Dr. St. John: What it will be as it gets going--and I am hoping it will become organized the way we foresee it--is a venture capital fund, particularly concentrating on chemical and food processing technology, and agricultural technology. The first investment they are interested in that some of the principals are involved with is a portable seed cleaning plant.

11:40 a.m.

Their perception is that, because of the high cost of energy that developed after the Organization of Petroleum Exporting Countries crisis, there are a number of potential business initiatives available in taking processing to the farm gate as opposed to taking the product to some central processing facility. They are exploring that actively, not only in terms of doing it in Ontario, which is a relatively small marketplace in the agricultural area, but in terms of generating machinery that could be used particularly in the US market or in the Third World.

Energy costs, of course, are crippling to many Third World countries, and we perceive a potentially major business opportunity in getting into Third World agriculture through this kind of machinery and cutting energy costs for Third World economies. This might well result in action by Third World governments to give preference to this kind of machinery, and of

course our aim would be to manufacture the machinery here for those purposes. So that is the kind of niche they are looking at.

Mr. J. M. Johnson: In conjunction with this you would work with the University of Guelph, Elora research station and things like that.

Dr. St. John: Yes, absolutely.

Mr. Mancini: I have just a quick supplementary on the agricultural question as to how it affects the Third World. How do you co-operate with the Canadian International Development Agency in order to make sure you are not both competing for the same market out there?

Dr. St. John: We ask for their money, I think. CIDA has funds available to assist in the market testing of Canadian products in Third World countries. We are aware of it, and I would like to highlight the point that the number of agencies that are being mentioned here as potential affiliates and potential connections for IDEA is one of our fundamental problems. We are building a network such as that--

Mr. Mancini: I see them as potential competition. In order for you to justify over a period of time the expenditure of government funds for the IDEA Corp., sooner or later you are going to have to produce several concrete successes, and in order to do that I see potential competition with groups such as CIDA and others. I hope we do not start funding research groups to compete with each other on a government-funded basis.

Dr. St. John: I am sorry. I cannot see CIDA as competition, because CIDA's aim in this area is to assist in market surveys in the Third World for Canadian products. CIDA will then produce funds for the Third World countries with which they can buy Canadian products. So if we find an innovation that looks as if it might have a Third World application, I would be delighted to get a CIDA grant into that company to assist in testing its marketability in the Third World, and even more delighted if CIDA then granted money to a Third World country with which to buy that product.

It is not competition, it is in fact strongly supporting industry; and we have assisted in the development of the innovation that will go through that pipeline.

Mr. Watson: Is it seed cleaning or seed processing?

Dr. St. John: Seed cleaning technology for stripping out the chaff, stones, pebbles and so on. It is a portable plant on a truck.

Mr. Watson: What is your specific connection with the agricultural technology centre in Chatham?

Dr. St. John: There is no extremely specific connection. We have had discussions with them--they are just getting organized, too, and getting started--and we have explored a number of areas where we hope we will co-operate in the future.

In the case of the seed cleaning, I am talking about an independent company in a rural area of Ontario that is owned by some entrepreneurs who are seeking to develop new products and expand their company. In this case I would introduce the Chatham centre and the company I am talking about to each other and see whether or not the centre could assist in the development of their business.

Further, I expect the centre in Chatham will eventually either produce for us market niches they have identified--for example, "We have identified the fact that a lot of local farmers would love to have a product that did this"--so we can then start working together to see if we can create an innovation in that area, or, alternatively, refer innovators to us.

It has been my experience that all farmers are closet inventors, and behind those barn doors some extraordinary innovations have been rigged up to try to improve the efficiency of farming. I think the centre in Chatham will be a very important way for us to get into those situations and find potentially significant developments.

Mr. Watson: A lot of them have had the ideas, that is right; I think that is where all these inventions come from. But one of the holdups has been the financing ability or even the expertise to market and develop them and have some of the technology aspects looked after.

Whenever anybody seems to have these, he does not seem to have any money, and some of the problems that have been associated with the other types of funds we have where you would have to get some kind of charter to get--

I have lost the name of the fund where you form a company and you get the tax advantage.

Dr. St. John: The small business development corporation?

Mr. Watson: Yes, and the demands of the information you have to submit. The fellow who has some kind of improvement for a new drainage machine has a lot of trouble getting that kind of organization done because, quite frankly, he does not understand it and does not have the contacts to look after everything, from the patents down to the business plan, as I think you refer to it.

Dr. St. John: That is right.

Mr. Macdonald: That is a good example of exactly the gap we are trying to fill. I wanted to emphasize, we are not taking a so-called highbrow view that the only things of importance are going to emanate from some huge, complex laboratory.

Our definition of an innovation is a very broad one. It might even include what some people would call gadgetry. The point is, if the gadgetry has a commercial application and possibly a social benefit as well, that is very important to exploit.

I have used this example in illustrating this several times.

There is a device which a small inventor has established--it is about to come on the marketplace--and which you will be able to buy for \$5 or \$6 in the corner store. It is a simple little device you hang over your ear, similar to the thing you plug into a radio or television set. If you are driving home after a dinner one evening and your head is nodding a bit and you are getting a little drowsy, it starts to go off and sets off a beeper in your ear.

That may seem a simple and modest little point, but if you translate that into the social consequences and cost of avoiding the calamities of accidents and death and dismemberment and what not, it has tremendous social and economic potential to it. There is in so many of these small things. We are not making any prejudgement about where something comes from or what its potential might be. We are trying to analyse it honestly.

Mr. Watson: At some point, Mr. Chairman, if not now then later, I would like to make the connection between SBDC funds that might help the bark industry the member for Wellington-Dufferin-Peel (Mr. J. M. Johnson) talks about, or yours. I do not know if you want to deal with that now or not.

Mr. Chairman: Why do we not just follow on with the--

Mr. Watson: Where is the connection? The fellow out there who wants to get financing, the little fellow Mr. Johnson talks about who has an idea. He comes to you, or he goes to SBDC. Where are you similar? Where are you different? How do you co-operate?

Dr. St. John: We have been out to talk to the SBDC people in Oshawa. My perception of their program is, first, that the SBDC is not restricted to technology. It is into small business. The SBDC is attempting to make available a pool of capital--it is attractive capital to the investor because of the granting program--which it will invest in small businesses.

I would assume an SBDC, therefore, would function as a rather limited type of venture capital fund. Typically, an SBDC will do very few deals and will be deeply involved with them, for businesses that are at a point where the innovation, shall we say, is fairly clearly developed.

An SBDC could invest in a very early-stage innovation. In my experience, it is very rare for them to do so. They invest in small operating companies with some track record, typically. By its very nature, the program offers a grant back to a private investor who wishes to get active, so there is a rather wide spread on what it chooses to do in the end, within the confines of the program legislation.

What we are finding is that certain kinds of deals coming to us look logical for the SBDC program, and we refer them over to see if they can get financing that way. If they can, there is no need for us to go further with them.

Mr. Watson: Is that because of the state of the

technology? In other words, the prototype has already been made.

Dr. St. John: Yes, the prototype has already been made, or it is already in a company. The SBDC is funding companies, and most SBDC investors are looking for a company that has sales and staff and is actually running. Some of them work on startups, but most of them are looking for slightly more mature situations to invest in.

Mr. Watson: The SBDC is looking for them?

11:50 a.m.

Dr. St. John: The SBDC itself, that is, the small business development corporation, which is a fund of up to \$10 million, is looking for an operating company in which to invest its money and then to participate in growth. There may be no innovation involved at all. It may not even be technological, but it has certain limits on size and so on under the Small Business Development Corporations Act.

There is a window for a type of investor who is likely to look for a certain type of company and when we see that type of company, we ask, "Why don't you try to see if you can get your money over there?" Of course, we would not send out a company that had a very strong technological component. The SBDC program, again typically, will not have much technology in its capabilities, unless you get an individual running an SBDC who happens to be a technologist.

Mr. Watson: I guess we are getting as basic as to which side of the fence you are working for, and maybe you are working for both of them. Is it the fellow who has the money to invest or the fellow who needs somebody to invest in his company?

Dr. St. John: We are working for both. If we can bring them together, then something has happened to stimulate growth and innovation in the economy. In that case, it is an introduction service. If this guy has money and you need money, you can talk. We stand back.

Again, this picks up the earlier point which I was going to allude to with respect to the agricultural technology and the farmers. One of the things that has struck me, in this organization, is the sheer need for information out there on where to go next.

I think it is a major role and we will increase our activities in it, as we understand it. People will come and say: "I have this widget. What do I do?" The need for money is secondary. They want to know what kind of organization to talk to.

There are SBDCs. There is private venture capital. There are the chartered banks. There are the foreign banks now operating here. There is the Federal Business Development Bank, the Ontario Development Corp. There are various kinds of large companies which might have venture funds, or new-product development areas, and we

try to give them advice, "Do this first to protect yourself, and then go and talk to him."

Frequently, that is all that happens. They are gone. There are the underwriting houses. I could go on and on. We try to identify the process by saying: "If you do this first to protect yourself, you will not get robbed of your technology and then go to talk to them. Good luck." That does it. They never come back.

Mr. J. M. Johnson: --did you say to the farmer?

Dr. St. John: Yes. Well, there is a particular place where I should comment--I think it is a particular place where this kind of service would be of extreme value to them. The farmers frequently do not know--

Mr. J. M. Johnson: Our Minister of Agriculture and Food (Mr. Timbrell) is now publishing a paper. Why not take advantage of this paper? It is sent 10 times a year to 80,000 farmers.

Mr. Epp: AgriNews?

Mr. J. M. Johnson: AgriNews. I would not change the name.

Dr. St. John: I see. Do you mean use it in terms of informing them?

Mr. Breagh: Getting--

Dr. St. John: I see. Absolutely, in terms of doing it. I think it is a very good suggestion, and one well taken.

Mr. J. M. Johnson: Just strictly agricultural.

Mr. Epp: Mr. Macdonald, you said to the minister--

Mr. J. M. Johnson: It is a wonderful idea, Herb, and you know it. These fellows are being too political.

Interjection: Could we go on with the--

Mr. Lupusella: I do have an idea, but I am not sure if my question can be answered. Let me test the IDEA position on a question by the following question: why was there a need to establish the IDEA Corp., even though I realize this corporation is an extension of the Board of Industrial Leadership and Development program?

Why did not the BILD program do what IDEA is doing today? Do you think it was necessary to establish the IDEA Corp., when BILD could have done what you are doing now?

Dr. St. John: My perception is that BILD chose to try to conduct this business activity in a corporate structure as opposed to a direct-granting agency of government or as an extension of the ministry. I was not present when they made that decision and I am not privy to all the reasons behind it.

I think it was a good decision, because it has created a self-contained organization, which can easily develop its criteria for activity internally, but I am sorry, that is a statement of general government policy, and I have to defer.

Mr. Macdonald: In the same way, I was not present at the inception of BILD either, but I asked the same question when I was asked to take on the chairmanship of the corporation. The reason for establishing a corporation as the instrument was to identify that it was the commercialization process that was important. By our statute, we are not in a position to do the research ourselves, nor are we in the business of just giving grants to universities or other laboratories, agencies or facilities for that. It was to meet this particular perceived need, the gap between the research that existed and the process of bringing it to market through advice and marketing knowledge and finance. I agree with Dr. St. John that has been a particularly imaginative way of doing it.

Mr. Lupusella: In your presentation you state that capital investment is highly risky, and we know the reasons why. Did you consider your role in the light of the millions of dollars the Japanese are spending on research and development that might be well in advance of what you are doing?

In other words, the projects you are undertaking now may be at the embryo stage, while the Japanese may have the product and you might end up losing your investment completely.

Dr. St. John: To start with, one of the major parts of the analysis of an innovation proposal is what we call our technological analysis. That is to see whether we can detect whether anybody else has got there first. The patent system is one way of doing this. If they have reached that stage and patented it, and there is some way of getting hold of the patent, we will know they are already there.

That, of course, is almost the definition of the risk of the process. Ontario represents less than one per cent of the research and development going on in the world, and we have to try to get world-class products out of that system which can be protected internationally. Everyone in the world, though, is faced with the same problem of what is the other guy doing. Sometimes it is the Japanese. Frankly, I think one has to look to Europe as a major source of innovation in future years.

For example, Great Britain has more patents per capita than any country in the world--it has been the most effective source of innovation in modern times--whereas Japan, as an innovator, has no more Nobel prizes than little Australia does. You dig as far as you can, you try to use networks, market intelligence, published information, to see what can be invented, and you recognize that most significant inventions in history have been made simultaneously in several places.

You hope the patent system will give you a way into this field. You hope straight market strength will give you a position in the field, even if you do not have the patent. You may be able

to get a licence for something even if you thought you had invented it.

We share that problem with every advanced country in the world and, for that matter, with Third World countries too. Simultaneous innovation, or being behind, is a major problem.

Mr. Lupusella: My next question is based on the principle that innovations are quite secret until the product is on the market. I wonder what kind of concrete information you might get to direct your investment with Canadian companies while the Japanese may have their product almost finished and you do not know. It is a risky procedure.

I realize the difficulties you have, but I wonder what criteria you are using in relation to that reality of the world. We know for a fact, with great respect to the Japanese people, their government gives billions of dollars to research and development, and here we are with the Ontario IDEA Corp. spending \$11 million in 1982. It only means so much.

Dr. St. John: I am stimulated though, as I survey the world scene, by the success of other small countries. For example, consider Sweden, which has a population very similar to that of Ontario. It makes the world's best papermaking machinery, supertankers, some of the world's best cameras; it exports its cars all over the world and makes high performance jet fighters. It is a very strong, high-technology economy, based on a population about the size of Ontario's.

12 noon

Mechanisms exist in the world today, particularly in some of the smaller European countries, to demonstrate how a smaller population can innovate successfully and export successfully in the face of the competition of the Japanese and others. It is not an easy problem, but many of the biggest Japanese companies, as with many of our large companies or the Americans, are only interested in certain types of products. Canada, historically, has been successful in finding niches that are somewhat smaller than the largest businesses in the world and exploiting those niches to the full.

So you can rest reasonably assured that certain of the large Japanese companies will not move into certain of the businesses we are interested in because the latter are not big enough, in the same way that General Electric will not take on certain small projects.

There are ways of getting at marketing intelligence--not only of what they seem to be doing but what they are likely to do.

Mr. Lupusella: You also established up to eight high-technology funds. How many companies are involved in these funds? You established IDEA Biological and Medical Technology Fund Inc. Is this a company or is it just a fund--

Dr. St. John: The biological and medical fund is an

incorporated, wholly-owned subsidiary of Idea Corp. that will be used as the investment vehicle in a biological and medical technology syndicated venture fund. Where that fund will go is open to question. However, to use an example, we will end up owning 25 to 30 per cent in one of the syndicated funds, co-investing with as many as eight or 10 or maybe 15 other investors. The major target investors those funds are going after are the major pension funds.

Mr. Lupusella: So you have a company that is already participating in the funds of the IDEA Biological and Medical Technology Fund?

Dr. St. John: The bio-med fund is a subsidiary of IDEA. The Medicus fund is planned to be a stand-alone, arm's-length company related to that subsidiary, in which that subsidiary will only be third. The Medicus fund will probably be incorporated under the Corporations Act. Since we are taking one that is not complete yet, it is not the best example, but let us use that example. It would be a Corporations Act company and it would have a range of shareholders, again typically institutional funding sources, although we may attract a number of corporations into that fund as well.

Mr. Lupusella: You have committed \$53 million in innovative programs to date. When you select the company that has a project, do you take into consideration whether or not the company is Canadian-owned or not?

Dr. St. John: We certainly take it into consideration. However, if a foreign company is willing to site the growth of its company and jobs here in significant part, we are very interested in talking to them. The venture funds themselves that the \$53 million relates to are all Canadian, of course.

Mr. Lupusella: What kind of protection do you have if there is a change of ownership?

Dr. St. John: In the venture funds themselves we are part of the company and part of the ownership. Should one of the other investors wish to sell shares, we and the other investors have a first-refusal right to pick up those shares. We also have a first-refusal right to pick up any new shares from treasury that the fund decides to issue. So the change of ownership can be blocked through that right if we and/or the other investors wish to block it.

As far as the company below the fund is concerned, if you invest in it there is a judgement call, depending on the size and significance of your investment, as to how many provisions you ask for in the agreement with that company.

For example, if a company is selling \$100 million a year in products and you make a \$50,000 investment in a joint venture, it is unlikely you would be given any say as to what happens in a change of ownership. However, if you are providing the major financing for the company as a whole, you are very likely to ask for very strong rights to determine what happens--not only to the

ownership but the management structure of the company.

Mr. Lupusella: What kind of protection do you have in case the company goes bankrupt?

Dr. St. John: As an equity investor we lose our money if the company goes bankrupt and we are still in it. This is the fundamental nature of the venture capital process. You take risk-equity investments and many of them do not work. The winners pay for the losers.

Mr. Lupusella: I think you were right when you said your investment was highly risky.

Dr. St. John: Absolutely.

Mr. Lupusella: My other question is based on the principle you enunciated that you try to get innovations and new technology around the world, so the corporation must travel a lot. What is your expenditure on that?

Dr. St. John: I cannot give an exact expenditure now. It has not been that high because we have not really activated that process to a significant extent in searching for world innovations.

We have developed a number of contacts in Europe to find ways to get into the European innovation system. We are confident a number of these approaches will yield a large range of potential innovations that could have their growth sited here. At the moment, going back to the point that we are still in the reactive stance, we are still reacting to the vast numbers of things that are coming in on us and do not have a clear handle on that yet.

I anticipate that when we become more proactive and start searching for extremely interesting situations we can develop here we will tap that network more and bring in more innovations.

Mr. Lupusella: The other question is based on the \$53 million which IDEA Corp. has already committed. Do you notice any return on this investment of committed funds?

Dr. St. John: I should clarify the commitment again. That money is either committed or targeted for commitment. In some cases the deals have not been signed.

Mr. Lupusella: There is some money already invested in certain projects?

Dr. St. John: Yes. In the commitment of money, the cash will flow into funds which will then invest. A typical venture capital fund, as with each of these funds we have, will look at as many as 800 investments over its life. We may have flowed many of those to the fund.

It will analyse about 50 of them in detail. It will offer to invest in about 15 to 20 of them and it will finally invest in about 10. This process takes several years. It is a very careful sifting, analytical process to pick the potential winners.

The experience of the venture capital industry has been that of those 10 selected, two will fail in relatively short order, six will go nowhere and will be what is called in the venture capital industry the living dead, and two will be spectacular successes. Those spectacular successes, upon being sold, will realize a profit that will pay for the entire process.

We do not anticipate being able to clearly identify a return on investment until near the end of the process, which is some years out. This is the structure of the industry we are in.

Mr. Lupusella: Your corporation has been established for four years. How much of the \$53 million is already invested in certain projects ?

Dr. St. John: The corporation became active on this business plan only on January 12 last year, when the government approved the business plan at cabinet and we could really start staffing and structuring it. It was at that point that the first funding was made available.

Mr. Lupusella: At the end of 1987, you might spend \$107 million. From that total, do you think you might end up--I know you are optimistic--with a great deficit or a return? Will you have to go to the provincial government and say: "We need more money. You had better give it or we are going to face financial problems"?

Dr. St. John: The mandate that has been laid on me is to make this company self-sufficient and I intend to try to fulfil that mandate. If I am unsuccessful, I expect my board will have a discussion with me about that.

Mr. Epp: You will be part of the living dead.

Dr. St. John: I will be part of the living dead.

Mr. Epp: It might come back to haunt you.

Dr. St. John: Oh, it will.

Mr. Lupusella: From the material before us, I notice the province has committed funds to the IDEA Corp. on the following schedule: 1982-83, \$11.7 million; 1983-84, \$35 million; 1984-85, \$30.4 million; 1985-86, \$21.5 million; 1986-87, \$8.4 million.

How has this total been scattered through the years? Did the board have an input on scattering the total amount from 1982 up to 1987, or was the decision made by the minister?

Dr. St. John: I drafted the basic business plan, including those totals, and submitted it for approval to the board of directors of IDEA, which approved it. The approved business plan was then submitted to the minister who, upon his approval, took it to the Board of Industrial Leadership and Development. It ultimately went through BILD and then cabinet.

The reasons for that were based on my estimate at the time as to how fast we could possibly, in a best case, syndicate the venture capital funds that were implicit in the business plan.

The difficulty in syndicating them is that you are waiting for action by other parties. For example, how fast does a pension fund make a decision on whether it will invest in a given fund? That was our estimate as to how fast the process could be made to move in terms of drawdowns of commitments for the activity.

12:10 p.m.

Mr. Lupusella: Based on these provisions from 1982 to 1987, how is your present budget? Did you spend \$11.7 million in 1982-83 or did you lower that figure in relation to the capital investment?

Dr. St. John: We were lower than that figure by last March in the commitments taken.

Mr. Lupusella: How much?

Dr. St. John: We had approval of the business plan to proceed with the syndication effort on January 12. Of that \$11.7 million, the \$10 million of that which is a capital component was allocated to us on March 29, the fiscal year ending on March 31. It was placed in noninterest-bearing deposits in the Province of Ontario Savings Office and returned to the consolidated revenue fund at the time, but the allocation exists and can be drawn upon as the funds come together.

Given the commitments we have either targeted or formally made, as implicit in the syndication process, my feeling is that as these come together there will be a rapid catch-up to the budget that was proposed. Basically, the budget was an estimate of how fast we thought the situation could go because I did not want the syndication process to be retarded by a slow flow of cash. I wanted to make sure that was the maximum best case we might be able to see.

Mr. Lupusella: Let me find out if I understood your statement clearly. The leftover from the \$11.7 million goes back to general revenue funds. Do you have the right to draw the money again or is it allocated as a special fund which might be used by IDEA Corp. in future fiscal years like 1983-84?

Dr. St. John: More the latter. Fundamentally, it is simply on deposit at the Province of Ontario Savings Office bearing no interest to IDEA Corp.

Mr. Lupusella: The money is there.

Dr. St. John: The money is there.

Mr. Lupusella: It might happen that in 1986-87 you might invest in a capital innovation project the money which has been left over from different fiscal years reaching 1987?

Dr. St. John: No. I think by then it will have been invested in funds. Referring to the \$53 million which is either committed or targeted for commitment, those are paper commitments in the sense we have signed, are about to sign or plan on signing contracts stating that if the funds syndicate and the venture funds raise sufficient external capital to pass some trigger point--usually it is about two thirds of the fund; it varies from fund to fund--at that point they can call on the commitments, not only from us, but from the pension funds and corporate funds in other institutions that have signed similar commitments.

At that point you pull out the cheque book and give them their money. The pension funds all operate this way as well. It is an institutional investment stance that states the fund manager has to demonstrate he can syndicate before he gets the money.

Although we have that money on deposit at the Province of Ontario Savings Office, as soon as the funds call upon it and can demonstrate they have met the contracted commitments, that money will flow directly to the funds.

Mr. Macdonald: I think it is fair to say the allocation year by year was more or less notional in this kind of banking operation. That is not to suggest we are going to be governed by trying to spend exactly that amount in a given year.

What we tried to do, as Dr. St. John said, was to anticipate the most we might spend in a year so we could activate the fund when there was an opportunity to do so. The really important thing to us was the government's commitment at the beginning that those funds would be available for drawing, so we, in turn, could make commitments to the private partners that we would be able to honour our obligations on entering into a syndicate.

Mr. Lupusella: I was quite surprised to see that for the fiscal year 1983-84 the corporation is planning to spend \$35 million and for 1984-85 it is \$30.4 million. Is it safe to say that maybe it is the time for a provincial election? The expenditure of the corporation will increase, and then in 1985-86 you are lowering the capital investment to \$21.5 million and in 1986-87 to \$8.4 million.

Dr. St. John: The reason relates to the syndication cycle. The money must be put up at the front and then it is invested by the funds directly. If you wish to attempt to obtain self-sufficiency for the corporation, you must move the investments out early so they have time to have wealth generally increased in them and then be disposed of, exited from the venture capital funds near the end of the cycle.

We are hoping that the first exits from the venture capital cycle will be occurring by 1986-87. At that point there will be a cash return coming back to the corporation from the investments.

Mr. Lupusella: You hope you are going to get a return.

Dr. St. John: I presume it will be reinvested, but it is up to the government what it does next with the corporation. We are planning the corporation's activities in such a way that reinvestment and a continuation of the process will be possible.

Mr. Lupusella: Is the corporation receiving the moneys allotted by the government on schedule and according to its needs? What kind of arrangement do you have? I can see a total of \$1 million or \$7 million in different fiscal years, but are you supposed to show the government there is a need in order for you to get this allocation of money? What kind of arrangement do you have? Are you truly independent, or do you depend on the money the provincial government is giving you on the basis of the principle that you have to demonstrate that the money must be spent?

Dr. St. John: I believe the way to word it is that the corporation has been directed by the government that it will be acceptable to the government for it to make commitments of up to that amount of money in the furthering of its objects, so we are in the process of making those commitments.

Mr. Lupusella: How do you foresee this economic goal, based on the money you are investing? When there is an innovation, until the product is manufactured I do not see such growth. Actually, you are involved in projects that might be at the embryo stage, which does not necessarily mean you are stimulating the growth of the company. It might be a result of the innovation that might cause the growth, which is a long-range goal, is it not?

Dr. St. John: We listen to the companies. If they perceive that they have a new product idea that will cause their growth, and if we agree with them, then we finance their attempt to grow on the basis of that innovation. In so far as they are successful, growth and employment development will occur.

Mr. Lupusella: Again, when the innovation is concretized and the product is on the market, that is when you foresee the economic growth.

Dr. St. John: Absolutely.

Mr. Lupusella: Eventually, the company is going to hire more workers to manufacture the product.

Dr. St. John: It is a long-term process. There is absolutely no question about that. That is the fundamental aim.

Mr. Lupusella: With respect to the role of the corporation, let me touch on the principle of loans given to companies or corporations by the IDEA Corp. What kind of return do you have or what kind of charge do you make to a corporation in relation to interest rates that must be paid back? What kind of framework do you have in place in relation to a loan?

Dr. St. John: Loans will typically be used only as an interim step in the cycle. We do not see ourselves fundamentally as a debt instrument, as a loaning agency; we are not a bank. We have used loans a couple of times to start a process, to start a discussion.

Mr. Lupusella: When was that?

Dr. St. John: For example, in the case of RMS Industrial Controls Inc., which I mentioned, we made a loan to them out of the innovation fund. The advantage of starting with a loan in a venture capital negotiation is that money can be given to the company very quickly under terms and conditions not dissimilar to those of a bank. If you are unsuccessful in your negotiations, if you cannot come to terms with them, they simply repay the money, you wave goodbye to them and they wave goodbye to you and go their own way.

But if you are successful, then the loan is generally converted into equity, for one thing to reduce the debt load on a small growing company that cannot handle a large debt load, but also because the potential returns--and the potential risks, therefore--of the equity are substantially higher than those of a loan. We would rather have equity than debt because the potential returns are higher and, of course, the risks are higher.

We may use loans, therefore, as an instrument in the process, but it certainly is not an end we are targeting.

Mr. Lupusella: You are saying you might be faced with the possibility that the corporation is not supposed to pay any interest on the loan because it is given on an interim basis that may concretize a particular project, may spark a project and so on. So it is a free loan sometimes, is it?

Dr. St. John: It could conceivably be a free loan if there were some business reason that it was a logical thing to do. Obviously, it is not in the interests of IDEA Corp. to have a substantial free loan outstanding for a substantial period of time, so we would use it only in unique circumstances.

12:20 p.m.

In fact, when you look at the type of investment done at early stage, say, in universities or something like that, frequently the investment will be made on the assumption you are getting back rights to potential industrial property, or intellectual property in this case, perhaps a split on patents or something. If the thing is successful, you will get an accelerated repayment of capital. In essence, it is a loan even though it may be structured as a grant or as an equity investment.

Since yours is the only capital going into that university situation, or the professor's laboratory, it is inappropriate to ask for interest at that point, although you may have a contingency for an interest payment on the capital refund that comes when the innovation is successful, if the innovation is successful. If the innovation is not successful, the money will be effectively be a dead loan and will never be seen again.

Mr. Lupusella: How independent is the corporation? What is the relationship between the corporation and the minister? When you have a project, are you keeping the minister informed, or do you have the power given by statute to carry on your activities without the consent of the minister?

Mr. Macdonald: The corporation has the responsibility to carry on according to the business plan given to it by the government and supervised, so to speak, by the board of directors. As a matter of course, we are in regular contact with the ministry through the deputy minister and the minister, informing them of what we are doing and also learning about their other policies which relate to our program. Both the Deputy Minister of Industry and Trade and the Deputy Minister of Colleges and Universities are members of the board of directors.

Mr. Lupusella: Who is the person over you who is assessing the effectiveness of the project? Who is the person who will come to the point that the project is viable and your duties are fulfilled? Is the minister part of this process within the corporation, or does the corporation itself carry on this duty? I really do not understand the relationship between the IDEA Corp. and the person who is in charge to see that the corporation is fulfilling the mandate it was given in 1981.

Mr. Macdonald: The responsibility for exercising judgement about the investments and the projects we undertake is one the president and the staff assume. Second, the board of directors at its regular meetings wants to be satisfied the decisions the management is taking are consistent with the business plan of the corporation and with the statute.

In turn, it is, as I see it, my responsibility as chairman to ensure that responsibility is carried out and that we are keeping the minister, and through the minister, the Board of Industrial Leadership and Development and the government informed about our conformity to the business plan. But as far as the particular judgement about any individual project is concerned, we expect that judgement to be exercised by the president and the management.

Mr. Lupusella: Actually, the president is the person who has more liaison with the minister, and the minister is informed about particular projects which are carried out by the IDEA Corp. Am I correct?

Dr. St. John: If it is within the minister's purview of interest or desire to hear details of a particular project, usually I am asked to brief him about that project. Again, given the very large numbers of projects coming through the company and the investments which ultimately will occur, we have spent very little time in the details of an individual one as opposed to the broad program.

Mr. Rotenberg: May I ask a question just to clarify it in my mind? Are you saying, in effect, that as far as the day-to-day operation is concerned, with respect to the approval of individual projects and the responsibilities within the IDEA Corp., really there is no feed-in to that process by the ministry of the government? Is that correct?

Dr. St. John: That is correct.

Mr. Rotenberg: The overview by the government is really in your overall management of the total program, but any individual program is not reported to the ministry.

Mr. Macdonald: That is right. In addition, if I, as chairman, or the board perceived in our activities we might be finding ourselves involved in a broader policy question, that might have implications beyond the corporation for the government as a whole.

For example, when we were first approached about the prospect of the RMS operation wanting to come to Ontario from British Columbia to take advantage of Ontario-based technology at McMaster University, that immediately put on an orange light for me as a potential interprovincial complication between this government and the government in British Columbia. I wanted to be sure that intention was taken to the minister and, indeed, other discussions took place to make sure that something we did as our local initiative did not become a large interprovincial issue.

Mr. Lupusella: Mr. Chairman, with great respect, I am raising these questions because this committee really is not in a position to give a concrete judgement on whether this corporation is fulfilling the duties given to it in 1981, because we really do not know the extent and the content of each project and whether the money was well invested.

Even though the corporation is under provincial scrutiny by this committee or the minister, I am not really in a position to give a clear judgement on the manner in which the corporation has invested up to date, whether it was the right or wrong decision. We are faced with this dilemma. That is why I pinpointed this series of questions on accountability and fulfilling their duties in relation to the total amount of money they are planning to spend up to 1987. I am digging for information in my questions.

The other question, Mr. Chairman, if I may--

Mr. Chairman: Do you want to carry on with it now or break now and start at two o'clock?

Mr. Lupusella: Yes. Let us break now.

Mr. Chairman: Fine. Shall we break now? This afternoon Mr. Lupusella will lead off. Then we have Mr. Mancini, Mr. Van Horne and Mr. Breaugh in that order.

The committee recessed at 12:27 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
INNOVATION DEVELOPMENT FOR EMPLOYMENT ADVANCEMENT CORP.

WEDNESDAY, FEBRUARY 22, 1984

Afternoon sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Hennessy, M. (Fort William PC)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Lupusella, A. (Dovercourt NDP)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Sheppard, H. N. (Northumberland PC)

Substitutions:

Van Horne, R. G. (London North L) for Mr. Edighoffer
McLean, A. K. (Simcoe East PC) for Mr. Sheppard

Clerk pro tem: Callfas, D. G.

Staff:

Eichmanis, J., Researcher, Legislative Library

Witnesses:

From the Innovation Development for Employment Advancement Corp.:
Chudy, L., Vice-President, Corporate Affairs
Lyn, G., Vice-President, Finance
Macdonald, H. I., Chairman
St. John, Dr. B. E., President and Chief Executive Officer

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Wednesday, February 22, 1984

The committee resumed at 2:06 p.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
INNOVATION DEVELOPMENT FOR EMPLOYMENT ADVANCEMENT CORP.
(continued)

Mr. Chairman: All right, gentlemen, seeing a quorum, we will carry on with Mr. Lupusella.

Mr. Lupusella: I have just one question which is my final question of the day. I have a particular concern about the total amount of money which will be spent up to and including the fiscal year 1987.

Did you present any plan to the minister of how many jobs you have projected from this total expenditure; how many jobs will be created either by the private sector as a result of innovations which will be implemented on venture programs between Innovation Development for Employment Advancement Corp. and other corporations involved? What kind of projected figure do you have in relation to the creation of new jobs at the expiry date of your mandate, which is 1987?

Dr. St. John: We did not base our submission on a projection of jobs for a number of reasons, one being that we were attempting to describe to the government how technically we would cause the process. The second reason was that one of the major factors in the technological revolution we are in right now is a rapid change in productivity. It is extremely difficult to project, at this point, the degree of productivity we will be seeing in the types of companies we are investing in. Therefore, the ultimate number of jobs created directly in the company is associated with sales and marketing.

Mr. Lupusella: On what do you base your optimism? I am not blaming you, because if there is no optimism involved in your operation you might be discouraged from what you are doing. But what kind of concrete foundation do you have on which to base your optimism in relation to a fair return of your investment and also in relation to the aspect of job creation of your venture programs?

Dr. St. John: Going back to a point I made earlier, there have been a number of very fundamental innovations made in the world over the last 25 years, one of them being the development of the chip, which is allowing the emplacement of intelligence in machinery and the second one being the ability to manipulate life for the first time on a substantial scale through genetic engineering.

The entire world is now caught up in a race to apply these fundamental innovations to new products and to the restructuring

of their economies. This debate is going on in every country in the world. I have no reason to believe that Ontario will, in any way, fall short in taking its share of the new product opportunities and new innovations that are possible out of that.

In IDEA Corp's role within that process, we believe we are going about it in a professional and prudent manner and I base the optimism on the belief it will work.

Mr. Lupusella: On the issue of genetic engineering, I am trying to tell you what I read in the newspaper and see on the news on television. There are several firms in the United States already spending millions of dollars in relation to this particular field. If something comes out from that investment in the United States, I am sure you are going to be far behind what they are already doing and have been doing in the past.

Dr. St. John: To make one point, we are aware of about 100 firms in the US in genetic engineering. Second, one of the most successful firms in the world in genetic engineering is a Danish company based in Copenhagen called Novo. Denmark has a population of only 5.5 million and they are managing to survive very well in that particular field.

Third, from our direct hands-on experience in the Queen's University cardionatrin project and from others we are closely evaluating now, we believe that Canadian innovation is second to none in the area. I am not saying we are ahead of everybody else, but we certainly have a fighting chance to establish ourselves in a number of niches in that innovation as well as in others.

Mr. Lupusella: That leads me to the point that here we are faced with the IDEA Corp. having an asset and being ready to jump into the market when the market develops. In some way I see some contradiction in that the scope and the role of your corporation is really to initiate innovations. As far as I am concerned, the corporation at the present time has a good amount of money and projects coming, yet in the United States, for example, there is this corporation ready to jump into it.

Again, I do not know if you get my sense of frustration. I do not see so much innovation in the IDEA Corp. trying to find new things in the market from what is already there.

Dr. St. John: I am sorry if possibly I have not adequately described our mission, but what we are attempting to do is stimulate the development of innovations which are marketable. Going again to the project at Queen's as an example, we have put up the money to complete the research, to unravel the structure, which will eventually lead to a class of pharmaceutical compounds which we hope will be a cure for congestive heart failure and a cure for hypertension.

You cannot get much earlier than that. We are right down in the laboratory trying to unravel the structure of a compound which ultimately--perhaps seven years away, perhaps longer--will result in a new class of pharmaceuticals of very wide application.

I am sorry, I cannot agree we are taking known things. We are attempting to create innovations and stimulate their creation and their emplacement in the market.

Mr. Lupusella: Perhaps my friend has more detailed questions which will elaborate on this principle.

Mr. Breaugh: I have a few little problems with the IDEA Corp. I think I should try to put on the record that my understanding of what you are trying to do is supportable. It is a commendable notion to try to do something which facilitates getting over a gap that is there.

I hate the name. I think that puts me off more than anything else. I recall the circumstances under which it was born, which also causes me some aggravation.

Mr. Epp: Do you want to cite those, Michael?

Mr. Breaugh: No. We cannot use that kind of language in here anyway.

Setting aside those concerns, it seems to me there is a role to be played here which I see other nations doing. I read through the report and it strikes me it has taken you quite some length of time between the grand announcement of an IDEA Corp. under the Board of Industrial Leadership and Development program and the actual functioning of it.

Perhaps you can take us through that process just a little bit. Why was there such a lengthy gestation period, so to speak? How was the process put together?

You have opted for a form of development of these ideas which is very complicated indeed. I would like to hear a little bit more, other than what you had in your introductory remarks today, as to just how you arrived at those techniques, those formulas, for putting an idea together. I would like to know why you picked the particular divisions you did, and why you got yourselves into what strikes me as being a rather complicated business transaction.

Dr. St. John: Okay. You asked a number of questions and I am going to have to ask you to remind me of what they were as we proceed.

First of all, in the initiation of the company, quite bluntly, I was not here for much of that process. I understand it was announced in late 1980 or early 1981. The act received assent on October 30, 1981. My personal appointment was on August 3, 1982. At that point, I started staffing the company and we had our advertisements out for the vice-president level by the end of August.

I presented the first draft concepts of the business plan of the Innovation Development for Employment Advancement Corp. to the board in October. Actually, I first described it in concept in September and presented it in October for board assent, at which

point it was submitted to the Board of Industrial Leadership and Development. It passed through BILD by December and it was approved by full cabinet on January 12 of last year, at which point we had approval to start drawing down money and to try to implement the structure.

The recruitment process for executives is time consuming and can take up to six months. Having started the advertising in September 1982, the first of our vice-presidents joined us at the beginning of January 1983. The last one, I think, started in May. So that was the basic process.

You can see the timing from when we received board assent. We are attempting to start a company here and a major licensing operation, and there is very little corporate experience in Canada in this kind of work. So, the hiring process and the training process of staff as to the basic parameters of work was difficult. We believe we are doing very well, given when we actually started our business program, which was early last year.

On the more general question of the complexity of the plan, the type of work IDEA Corp. is doing to stimulate early innovation on an arm's-length basis as opposed to new product development in a large company has been tried before and has been tried by a number of foreign governments. I believe the chairman mentioned there were some 20 organizations worldwide that are attempting the same kind of work under various auspices in other countries.

One of the most interesting of these is the National Research and Development Corp., of Great Britain, which was founded in 1949 because of a concern the British government apparently felt over the major drain, and the classic brain drain of the 1950s, of ideas from post-war Britain to the United States. The NRDC was set up as a means of capturing innovations from British universities. It was given a first-refusal right on all technology generated in the British university system that had been funded by British research councils, which is a very major asset base, as you can imagine.

The NRDC found its first successful innovation, in the sense of a commercial success on a large scale, in 1963, which is some 14 years after it started. That was the development of cephalosporin antibiotics, which came from Oxford University and ultimately netted \$250 million in revenues back to NRDC.

The NRDC subsequently found another major innovation at a British university, the pyrethrite compounds from the African pyrethrin plant, which is used in insecticides. When you use a can of Raid, you are using as an insecticide a compound which was developed in a British university. That one netted them about \$100 million.

In all the years of operation, the NRDC had only 40 innovations that made more than \$100,000. The first-refusal right of NRDC to British university technology was removed last year in a change in government policy to allow more access by venture capital companies into the universities.

The experience of NRDC and the experience of Research Corp. in New York, which was founded in 1913 for commercializing innovation from American universities--and they have co-operative agreements with 238 universities--and the experience of the National Swedish Board for Technical Development, the Danish Invention Centre, the Danish Technical Organization and ANVAR France, the Australian Innovation Corp. Ltd., and Research Development Corp. of Japan, along with the experience of corporations which have attempted early-stage innovation, including Canadian corporations, all have shown that it is an extremely complicated and difficult process.

2:20 p.m.

The major problem which is constant to all of these organizations is what we call "exiting in venture capital." When one of these organizations, or a company active in the area, picks up a series of innovations they cannot get rid of them; they cannot get them out. Remember, we are not talking here of an operational company. If General Electric gets a new kind of electric motor, it has a channel and out it goes to make it. We are talking of a financing organization that, in itself, will not operate and produce, but must sell the rights to the asset, or license or transfer it somehow.

The complexity of the IDEA Corp. business plan is designed to put firmly in place effective exit mechanisms so we do not end up with a company which owns 150 innovations, or something like that, which we cannot get out into industry. The complexity is designed to have a smooth bridge, shall we say, between the financial community and the business community through to the early-stage innovation, so there are a number of logical steps.

You may remember in the presentation this morning I referred to the exits from IDEA Research Investment Fund Inc. as being any of the five or six venture capital funds we are directly into, or the licensing, or direct investment or, finally, simply sale of the technology to other venture capital funds.

It is crucial to the experience of the venture capital industry and to the early-stage innovation development companies of foreign countries that this exit problem must be dealt with first, or you will end up with a serious problem of owning technology which cannot be removed from the investment fund. That is the reason for the complexity.

Mr. Breaugh: Obviously, in designing this setup for the corporation, you feel you have almost an immediate exit by means of the technique you have used in establishing how your corporation functions, the divisions you have and, inherent in each of those divisions as I understand it, is almost an immediate exit, at least in some of the cases provided for. You are in on the ground floor and you will participate, but there is a corporation at work which has the capability to get that product on the market itself or to expedite it some other way.

Dr. St. John: I would not like to use the word

"immediate" in the sense of timing, because the process can take years. Shall we say we are attempting to predefine an exit prior to an investment. We want a pretty good idea where that technology is going, how we are going to get out of that investment, and how we are going to get out of that technology, through licensing, financing as a small company or whatever.

There is the experience of all these other foreign organizations, plus the experience of the corporate community where corporate venture capital funds have frequently been set up to try the same thing. A number of large resource companies in Canada spun off small corporate funds, sent them to the universities and said, "See if you can get innovation."

In my opinion, one of the most constant features of those activities was the inability of those corporate funds to exit their investments. They were stuck with them. They were outside the mainstream business of the parent company and they could not get rid of them. They did not know what to do with them.

It has been a constant problem in Canada, in the United States and in foreign countries particularly, but in Canada and the US we have some interesting corporate examples of the problem.

Mr. Breaugh: Could you explain to us how, for example, the project at Queen's University has that aspect? How is the exiting process to work there?

Dr. St. John: The exiting process there will almost undoubtedly be a licence arrangement and a joint venture for a great deal more research with a large company in the pharmaceutical industry. We are talking to a number of them at this time.

The logical exit there is a large company because, being a pharmaceutical invention, that project is going to have to undergo extraordinarily severe regulatory hurdles. Being a drug to be taken by people, it will have to go through Food and Drug Administration approvals in the US, and so on. At current estimates, it takes between \$50 million and \$100 million to bring a new drug to market now in the United States because of FDA approvals. A great deal more research, development and testing will be necessary on that material, prior to it being available as a pharmaceutical, if it ever is.

What we are hoping is the basic work at Queen's on the fundamental patent we hope Queen's has been successful in gaining on that technology will ensure a major flow of royalties back to Queen's University and to IDEA Corp., of course, since we will have helped finish the research as this thing progresses to market. But it is years away before we will see that.

Mr. Breaugh: Let me try to stick with that because I am at least a little familiar with pharmaceuticals. Are you in essence saying that because it is developed here, there will be an advantage in gaining these approvals?

To try to carry it out a little more, I am aware that

pharmaceutical firms, many of whom are major American firms, run this hoop--and it is a very difficult circuit to understand--of trying to get approvals, where almost impossible barriers are put in front of the pharmaceutical firms. To put a product on the market in the United States you have to go before the Food and Drug Administration. To do that, you have to prove it is a safe product. To do that, you have to get people to use it. How to get people to use it before you can sell it is very difficult.

You often find that Upjohn or any of the pharmaceutical companies will run around the process. They will develop the product in the United States, but they cannot test it there, so they run off to the Third World where there are not all these regulatory bodies and they say: "Here you are. Here is a miracle drug for 10 years." At the end of 10 years they come back to the Federal Drug Administration in the United States and say, "See we only killed two Asians out of 10,000 here. This is a safe drug."

Or they will whip it up through Canada where we have the regulations in place but we do not really have any testing apparatus. Most of what we do is paper processing--where learned folk sit around and read learned documents and say, "Yes, it sounds all right to me." Very often the Canadian market is used as the entrance to the American market.

Are you hinting that because we might develop this kind of product at a Canadian university, that, for example, our Department of National Health and Welfare would look kindly on it? Perhaps it would take a look at it and say, "Ah, a nice safe pharmaceutical product developed here in Canada. Let us issue a patent or let us sell it to a pharmaceutical company that has a beginning market and entrance to the big American market."

Are we looking for advantages of that kind? To put it politely, there are ways around the regulatory process. Or are you saying there is no way around the regulatory process? Are you saying we are just going to develop the thing and sell it off to some American company and let them take it from there?

Dr. St. John: That is a hard question to answer. I have some difficulty with the idea you can run around the American regulatory process that easily. You are right about there being a Third World market. A major debate is going on about whether or not drugs or other materials that are not acceptable--this applies to DDT and things like that--should be sold in the Third World.

I think though that when you are talking about a drug of this nature, clearly any company attempting to commercialize it will seek access to the richest and most sophisticated markets in the world. This means the American market, the European market and particularly the Japanese market. The latter is a major outlet for pharmaceuticals.

We will have to work with a company capable of getting that American approval. Obviously the plan to get that American approval would be foremost. The Canadian market, simply because of population size, is not a significant force in the world pharmaceutical market.

Mr. Breaugh: But are you attempting to exploit the fact that it is a Canadian university developing something to the product stage? Does that get you by the regulatory hangups every private corporation has with developing a product, particularly in an area like pharmaceuticals where one is almost bound to run into major controversy with it?

Dr. St. John: I perhaps have not clarified the early stage of this innovation. There is a material which appears as fine granules found in the human atrium muscle, the heart muscle, which Dr. Adolpho de Bold of Queen's University discovered some 15 years ago. After some years of research he concluded it appeared to be the body's natural control on water sodium and potassium and therefore was the basic body hormone controlling blood pressure.

This was a major medical discovery. The question then was, what is the structure of this material and how does it work? Dr. de Bold's team has isolated the material, tested it and discovered it to be 200 times as strong a diuretic as any artificial diuretic yet conceived. Several other labs in the world are working on this at the same time. There is sort of a race on and a number of companies realized, once this material was characterized as having this effect, that it ultimately could be a major pharmaceutical.

A number of these foreign labs and Dr. de Bold's lab have now published the structure. More work needs to be done now to see whether or not this material can be made artificially and whether or not it is stable in the body. If you take it as a pill, for example, is it broken down in the digestive system or does it have to be injected? We need to know whether or not there are different ways of generating this material.

We are years from a potential product. What we have is a fundamental innovation of potentially great medical significance. The development of that into a product and what that product will look like and how it will work chemically and how refined it will be, how it is administered--and, of course, all the testing--has to be done in conjunction with a major company. It far exceeds the abilities of the researchers at Queen's in numbers of people and in the size of their operation to take on such a program. We need to go to a large company that can put 200 scientists on the program to try to see if they can turn this into a product.

It is not certain at this stage that the Queen's University team, which is the Canadian team we are backing, will be the winner of the fundamental patent race, as to who ultimately owns this technology. We know we have competition. It is also not certain whether or not that fundamental patent is the last word in understanding the structure needed to have this pharmaceutical effect. We are very early in this process.

Mr. Breaugh: You do not even envisage that something like that project might get anywhere near the product stage? You are selling research. You are selling concepts. You are selling information which at some point in time might in itself be marketable but not a product. Is that right?

2:30 p.m.

Dr. St. John: We will be dealing in the intellectual property and the patent structure which, as the foundation of the innovation, will have to be read throughout the process and will ultimately, we hope, result in a flow of royalties back to Queen's. The innovation has been made and we hope this will develop.

Mr. Breaugh: Okay, you are trying to get it to that stage where, if I may say, there is a legal entity to be marketed.

Dr. St. John: Yes.

Mr. Breaugh: Not a product, but something that might be called a patent, something that is worth some money.

Dr. St. John: Yes.

Mr. Breaugh: You are trying to expedite that process.

Dr. St. John: Yes.

Mr. Breaugh: Okay. There is another area which I would like you to elaborate on a bit. Members have touched on the proliferation of folks who are out there trying to do something good for Canada. One of them lives next door to me in Oshawa: the small business development corporation.

I understood you to say this morning there is a rather clear distinction. You sort them out. If they are the kind of folks who ought to see the SBDC you say, "Oshawa is that way," and that is the end of your relationship. Is that an absolute, that you do not carry forward with the concepts?

Dr. St. John: No, we hardly ever end a relationship that way. I guess sometimes you want to.

When we see a company which appears to be right for the SBDC program, which is a very well defined program in terms of the size of companies you can fund and all the rest of this, particularly if we believe that the innovation development component of it is not that great, that ultimately it is not going to have a substantial impact on the development of employment in the economy, we will frequently refer them down there. If we believe we may be able to help them further we may say, "If you are not successful in getting financing, come and talk again."

Fundamentally, we are here in the role of an adviser, trying to send these companies to a place where we think they may get success. The SBDC program is one of a number of programs out there that may be able to help them.

Mr. Breaugh: Would you be using, either in the corporation at the centre or in some of these other--this is where it gets confusing; with the structure you have, it seems to me a company--or not necessarily a company, it could be a group of people--could come to you with some concept it wants to work on. You would hook them into one part of your corporate structure and away they would go. At that point it is a funny public and private

animal that is walking around. It seems to me the option would still be there to exercise programs that are offered by the SBDC, for example. Is that still a possibility?

Dr. St. John: I am having a little difficulty understanding.

Mr. Breaugh: I am, too.

Dr. St. John: It certainly is a possibility.

Mr. Breaugh: Is it very likely?

Dr. St. John: We are trying to help these people. For one thing, the numbers of them who will come will far exceed our ability to directly invest, just because there are thousands out there eventually that are looking for financing.

Second, it has become clear to us that frequently all they are asking for is advice on how the patent system works, what kinds of sources of finance are available, etc. What does the Ontario Development Corp. do? What do SBDCs do? What does the Federal Business Development Bank do?

The knowledge that there is an association of venture capital companies or that certain banks do certain types of lending and certain types of projects specialize in that, is something we simply pass off to these people. We say: "Look, what you need is this kind of financing. We recommend you go and talk to these people." Very frequently, they go and they are very successful.

Sometimes, we will do a very intensive analysis of the company but for various reasons decline to invest and there is a case in point of a company we dealt with recently. They will take the knowledge gained in that analysis and follow another investment route. There was one of them we went through very carefully and then chose not to invest in, in part because we thought they could get money on the street. They are now doing a private placement underwriting at one of the major underwriting houses in Toronto.

In the end, in essence, they did not need us, although we helped by giving them a lot of business advice as to how to approach the underwriting community. I am confident they will raise their money and they will not need any public funds.

Mr. Breaugh: Part of what I am chasing around here is I am trying to get a grasp on exactly how you see your role. To get a little more specific about it, if your corporation exists so people, who are trying to do something out there with a product or with a concept, come to you and get steered in different directions or are made aware of other available programs, that is nice and clear and relatively easy to understand.

On the other hand, if they arrive on your doorstep and you say, "Oh yes, we have one of our little groups over here that just fits nicely with you and it is public and it is private," off we

go and we develop something to a certain extent. Then we will turn around to another agency--provincial, federal; who knows where the money might come from?--and we plug in that component of it, it gets very messy. People like myself say: "If you are going to slop \$20 million or \$30 million a year into something like IDEA Corp., I would like to know who is getting that money. I would like to know what they are doing with it."

In other words, I think there should be a strong measure of public accountability in here. I have to answer to the folks back home so I have to ask questions I normally would not care a whole lot about, because it is part of my job. When you have the private sector plugged in there, people start saying: "Yes, but we are not telling you what our product line is. We are not telling you who is president of our corporation. We are not going to unveil to you who the principals of this company are. We are not going to tell you what we are going to do. All we want you to do is slap another \$10 million into us." It becomes a very awkward process.

I am trying to see if we have managed to steer through this maze of modern government. I am still not clear that we have.

Dr. St. John: I will try to speak to that. To start with, I take exception to the idea it is messy. It is complicated, but it is not messy. Any one innovator will get a fairly straight route to place him where we think he can best be helped.

We attempt to avoid investing in companies that do not need IDEA Corp. investment. In other words, if the thing can raise money from the private sector and does not need government involvement, we believe the company should carry on and do it. We frequently assist companies by introducing them to the small business development corporation program, to underwriters, to banks or to other sources of capital. They have come to us because they do not know how to get funded. They do not understand the capital market. If we see they can fit into the capital market, we are happy to have that happen.

We further try to avoid funding projects that should not be funded by anybody on any account because they simply do not have potential. To pick up a point made earlier by the other gentleman, they may already have been invented elsewhere or else the probability that they will be invented elsewhere is so great there is not much point in starting the process.

What we seek is innovations of substance to the Ontario economy that will not progress to commercial development without our involvement. Those are innovations that are potentially at an early stage and need to be put on a fast track, out of the university into the commercial sphere, and there is no other agency around to help do that, or they are innovations available to Ontario that would not come here without our offices to assist in bringing them here and getting them into a business environment so they can grow.

This is why you see a very strong thrust in IDEA Corp. of attempting to refer, if possible, to other people. There are so many people coming with such a large capital demand that we

attempt to steer them to the place in the financial community where they can get help, if possible. The investments we hope to concentrate on will be investments that are substantial and would not have occurred without us.

Mr. Breaugh: I want to pursue this a bit and pick up on the point you made that it is complicated, but not messy. I would venture the opinion it has the potential to be both complicated and messy. When you get this public-private mix involved, which many of us support, I think all of us have an obligation to say it gets messy.

When you have a venture such as the ones you have outlined here today where there is a joint proposal, the moment it becomes a joint proposal it is neither fish nor fowl. In the Canadian experience, we do not have a good concept in our minds of what we mean by public-private. Both parties have different definitions at work here.

From our point of view, we say, just as you said, "We will take something that would not make it on its own where government money will make the difference." It sounds nice. Then we put \$20 million or \$30 million into this project. Three years from now, the project gets developed to the state where, if we were in the private sector, General Motors or Upjohn or some large corporation sitting in an office in the United States would look at it and say: "Listen, we have lost \$30 million on that dog already. Kick it out the door."

If it is up here in our little hands and we have \$20 million worth of public money in there and \$30 million worth of private money, then we are going to hear the argument, "It may be a dog, but it is our dog and we have to live with this dog for a long time." Such dogs are all over the place. There is no argument about that. Then we get into very messy arguments. We do particularly stupid things, because they are our things. That is the only reason we do them. The world is full of those.

Dr. St. John: I assure you governments are not alone in that. Many large corporations do exactly the same thing to projects they start. They say in the venture capital business, "You don't make money by the deals you get into; you make money by the deals you get out of."

Mr. Breaugh: Probably.

2:40 p.m.

Dr. St. John: That is very much their philosophy. It is one of the prime reasons for the public-private mix. Because we are co-investing with private shareholders, they will be extremely concerned about when we should get out of a deal. This concept of the living dead that I mentioned earlier is what drains venture capital companies if they are not well run.

You spend all your time working on the companies that just are not going to make it. What you should be doing is working on the companies that have the greatest opportunity to make it. It is

our intent--and I can only speak to it as an intent, because we are a new agency--to function in that way and not to keep funding an organization that does not deserve continued funding.

Mr. Breaugh: Just to give you some more concrete examples of where it will get messy--and I am not suggesting you are at the stage of messiness yet, but I think you are headed that way--there are things that are done in the private sector which to a business executive are penny ante stuff. When GM buys people houses and moves them around the immediate world, from GM's point of view this is peanuts. It is nothing.

If the government of Ontario were to buy me a house, that would be a major political scandal. If they moved me from Oshawa to Thunder Bay and they bought out my house in Oshawa and bought me a new one in Thunder Bay, it would be a two-star scandal. If they bought me a Cadillac to take me from Oshawa to Thunder Bay, we are into a triple header. In the private sector, they look at that kind of expenditure and say, "It is only \$10,000 or \$20,000 or \$100,000," or, "We took a loss of \$50,000, but we are going to bite the bullet; we are going to write that off." That is known as a business decision.

When the public sector is in there, there is a different attitude about that kind of stuff and it does become messy. You can look at the Urban Transportation Development Corp., Hawker Siddeley, de Havilland or any projects of that nature where there is a mix and the mix does not work too well. I am wondering how we have done it. Frankly, I see the beginnings of all that in what you have told us already today. I want to know how we are going to avoid it.

Dr. St. John: All I can say is I hope it is the beginning of something else. The chairman, who formerly served in the government, as was noted earlier, has advised me on occasion of how things are done in the government. I have worked in government myself before and I am well aware of the difference. It is certainly our intention to avoid that kind of problem. We do not own any company houses, but if you find a part of the government that will buy you a house like that, please let me know.

Mr. Breaugh: There is Minaki Lodge out there.

It is awkward because the private sector sees itself as having the right to make a business decision on how these things are handled. The public sector does not.

Dr. St. John: You are talking an intracompany transfer in the example you use. Both the provincial and the federal governments do have policies to assist employees when they move in internal transfers. I was moved by the federal government many years ago when I was in it, It has a policy that is not dissimilar. It is not as rich as General Motors, obviously, but it assists an employee who is transferred. I assume if we did that, we would assist the employee in a standard way in accordance with and in the spirit of the government's Manual of Administration which does assist employees when they are transferred.

Mr. Breaugh: There is another area I would like to explore with you. In other jurisdictions, I see similar things at work. Japan is the example that springs to mind.

I recently had a conversation with a local fellow who does business in Japan. He tells me this kind of concept is at work there, but it does not work in isolation. What we would call protectionism is pretty strong there, except they never use the techniques we use. They encourage a particular kind of industrial development. In the process of doing that, they will put a lot of money into it. They will put major government controls on that and they will put major restrictions on competition.

When you go and do business in a country like Japan you have to try to understand a culture that is very different from ours and a history of industrial development that is very different from ours. You face a package of things, not just one idea. You face a whole series of land mines there, carefully thought out and laid out over the years, of incentives to some people to do some things, of disincentives and of outright prohibition for other people to do things, sometimes in terms you never heard of before.

You can sell your product in Japan if you want. There is absolutely no restriction on that, except you cannot find anybody who will sell your product, that kind of thing. It is possible to do business in Japan and a lot of our business is done there, but it is certainly a different experience.

Dr. St. John: It certainly is. The Japanese are not alone in that. I was very impressed last year when the government of France insisted that all Japanese video recorders imported into France go through one regional customs office in Poitiers.

Mr. Breaugh: That is right.

Dr. St. John: No one can find the town, much less the customs office. It had a very salutary effect on slowing down the sale of video recorders.

Mr. Breaugh: It could do that.

Are we trying to develop something as comprehensive as that? Whether we make a value judgement about that kind of an approach being good or bad, those do seem to be the rules of the game in other jurisdictions.

Dr. St. John: With respect, I think many of the types of policies you are alluding to are federal government mandates, such as protectionism, tariffs and so on, nontariff barriers. Certainly we operate within the general business environment created by the provincial and federal governments.

Mr. Breaugh: I think what I am trying to get at a little more specifically is we have this IDEA Corp. pumping away here. It is not all that active yet, but it certainly has the potential to get very active and it certainly has the structure there. It may work very well if no one else steps in to block it.

For example, if your project at Queen's University comes to fruition and the major company from the United States wants to buy into it, then the United States government can say: "Hold it. You can develop that all you want in Canada, but we are not allowing that kind of investment." The Canadian government could interfere at that particular stage.

What will prevent us from doing the basic work in developing new products and ideas and being shut off at the pass? Again, that is kind of the exiting process, getting it to a product stage and finding a market. I do not see any guarantees that we can do that, do you?

Dr. St. John: Again, I think you are talking the general business environment and whether or not blockages to the flow of technology across boundaries may occur and so on. As the IDEA Corp. we operate within the environment as it exists. We are not in the position to have much influence on it.

Mr. Breaugh: Let me go through a couple of other areas with you that have already caused me a bit of a problem.

For example, when we took a look at our researcher's report on the IDEA Corp., I think many of us were struck by the idea that this is in early stages yet and it has not really worked its way out. Could you share with us why you went in with this Ansam Synergistic Technologies Ltd., what it is and what is going on there?

Dr. St. John: It is a venture capital fund attempting to raise private sector capital. It has a couple of million dollars in place now from pension funds and individual investors and they are seeking further capital.

Initially, we attracted Ansam by placing an advertisement in the newspaper to find venture capital fund managers interested in starting new venture funds and the president of Ansam applied. We spoke to him, we were very impressed with him and we checked his references and found him to be very highly regarded. We entered into discussions to prepare the syndication documents to start a fund.

Interestingly, he brought to us a particular bias that he believed there was a substantial opportunity available for investment in industrial automation and new products and processes in the industrial automation field. Accordingly, we said: "Fine. We have created the machine and automation technology fund. We will use that as a vehicle to take an investment in your fund if you can demonstrate your ability to raise private capital, if you can demonstrate credibility with the private sector in that way and can get that capital committed."

The \$6 million committed to Ansam is a contingent investment. It is contingent on him raising a sufficient amount of money. If he has sufficient, we will flow the cash into Ansam. He will have his private cash flow at the same time and he will begin investing.

Mr. Breagh: The first order of business here is to ask why are we investing public money into what appears to me to be a company which is doing what I thought you were supposed to do?

Dr. St. John: We are attempting to attract other people to come and assist us in doing what we are doing because the job is so large. We are leveraging the money, in other words, and attracting private money to come and assist in the exiting process for the early-stage innovations that will be exited from the research investment fund.

Mr. Breagh: Let me try to get you into a couple of areas where I see some problems.

First of all, I am not familiar with Ansam. Quite frankly, I do not know who they are and as someone who is supposedly accountable in some way for a few million dollars going into this company, I should have some knowledge of where the money went. Where did it go, who has it?

Dr. St. John: Who are they?

Mr. Breagh: Yes.

Dr. St. John: The chairman of Ansam is Bill McDonald, who is the chairman of the Canadian Commercial Bank. The president is a fellow named Hymie Negin, who previously ran Northway-Gestalt Corp. and arranged for its sale to Spar Aerospace Ltd. I believe he was working for the Merbanco Group for the last couple of years.

2:50 p.m.

Mr. Breagh: The basic premise for going into a corporation like Ansam is that it will allow you to do more than you could do on your own. Is that it, essentially?

Dr. St. John: That is one of the premises. There is leverage there. The second premise was the need for professional venture capital management, which is extremely difficult to get in the economy and there are very few individuals around who have the demonstrated skill of generating wealth and technology intents of companies. In our opinion, Hyman certainly had demonstrated that capability and it was a combination of a syndication and expansion of the capital pool and a recruitment process of a professional manager who could stay in those investments over the five- to seven-year cycle required and generate wealth in them.

The finding and recruiting of venture capital managers is a major problem which has been highlighted in a number of articles in the United States and is now surfacing in the developing European venture capital industry. It is a unique area of management and there are very few of them around. We found this fund by an advertisement placed in the newspaper.

Mr. Breagh: You have already got me from the point where I have a new concept proposed with the board, staff and all of that, where I can read your annual report and so on, but I am

already hooked up with something in the private sector where the information flow is less forthcoming, to be polite.

I understand there is a rationale behind getting more for your investment dollar out of it, getting expertise which you perhaps do not have now and would have some difficulty developing, but what controls do we have? What accountability do we have? How is that built into the process?

Dr. St. John: We have representation on the board and executive committee of Ansam. We have a unanimous shareholder's agreement which gives us wide controls over what the company does. We have management contracts with the management group of Ansam which restricts what it can do. We have a set of corporate policies that restrict their personal activities in a way so that they will not conduct anything improper. Therefore, through the contractual obligations of the principals of Ansam, we have ensured that accountability flows down into the process.

Mr. Breaugh: Are all of these policies, all of the things you just said, matters which members of the Legislature, as an example, could examine to see whether we are happy that--

Dr. St. John: The board of IDEA Corp. has examined them to approve the Ansam investment. We would be very reluctant to have them made public because it would be a signal to anybody with whom we wish to invest in the future that the results of confidential negotiations could be made public. That could be very damaging to our relationships with them. They are relatively benign issues and we would far prefer to discuss them verbally as to how they work rather than get very specific on individual details without their permission.

Mr. Breaugh: Now we are getting not only complicated, but a little messy, from my point of view.

The problem is simply this. Whenever a government sets up an agency like yours, we are all aware of who chairs the board, who does the work, how many staff people there are and where they are, and we always rant and rave about: "You have too good an office. You travel too much. Your expense account is too high."

When it gets right down to the basic decision-making process, at some point, the public accountability part comes to a halt and we say, in essence, "We have appointed a nice guy, a competent person to do business for us and from this point on we trust him." That is it. End of accountability here.

We know what is going on and our job as legislators is to kind of approve the expenditure and shut up about it afterwards. Quite frankly, we could beef all we want and raise all the little hoot and holler issues about rug-ranking and all of that, but when we want to get into the details of how that agency functions in the corporate world, there is a blockade. It is a blockade which I have difficulty kind of grappling with.

If this was your personal venture capital, I would understand the argument that it is none of my business how you

spend the \$6 million and if you blow your brains out three years from now, they are your brains. But if you drop the load on this one, it is our \$6 million that has gone down there. That is where I am having the problem.

It brought to my mind the response which committee researchers received when they got into a couple of what I thought were not very controversial areas. For example, here is a reply to a memo that I take it went to someone called Leslie Wood in the IDEA Corp., responding to a few requests we made for documents about Ansam. "With regard to details of IDEA's investments to date in projects through its internal funds, the response would be that the nature of these agreements will vary greatly from case to case and that the details shall be viewed as confidential."

I thought we asked a reasonably simple, straightforward question there. What we got back was a very polite answer which told me, "This is none of your business, fellow; butt out." Frankly, that is not acceptable to me.

Dr. St. John: With respect, I do not believe we are saying it is none of your business. What we are saying is the results of the negotiations and the tradeoffs on both sides, as embodied by the documents, we would hope would remain confidential for the people we were investing with, because the exact details of their funding, and the knowledge of the exact details of the structures in direct investments or otherwise, could provide their competitors with a competitive advantage.

Accordingly, as a general rule their preference would be that the details of exactly who is getting what would be kept confidential, because that would provide a competitive disadvantage; for example, employment agreements of people in these private companies and so on, which we are party to sometimes.

If all our documentation was exposed to public scrutiny in that way I would be very surprised if many people would want to work with us, either as innovators or as venture capitalists, because of the recognition that things that would normally be kept confidential would flow out through a government agency into the public domain in a detailed sense, as opposed to in a generalized sense or in response to specific questions.

It is for that reason, to preserve us a pool of people who will work with us, that we would just as soon, if possible, keep documents like this confidential without at least asking their permission. If they want it released, the board of directors of IDEA has approved the contents of these agreements.

Mr. Breaugh: This is where we are into the initial stumbling ground and the potential to get messy in a hurry is certainly here, as I see it anyway--simple things; at least I consider them simple things. I understand both sides of this argument having had long arguments on it.

Someone asked about board remuneration and the answer is the relevant order in council is attached which tells us what the president gets and that is all public information already. The

salary of the president is regarded as commercial and thus confidential information.

You put me in a position where the president of the board has by order in council published something like all your salary and all your expenses, however aggravating that might be from time to time. When you ask what seems to be a reasonably pertinent question, "How much does the guy heading this organization get?" it is said: "That is personal and confidential. It offers some risk and it is part of an employment contract."

By nature, we are interested in things like that. We are supposed to run a public accounts committee and a procedural affairs committee and review all of that. If we do not do that, if we do not ask those questions, the public out there asks: "What do you do jerks do for a living? Do you all go to Barbados in the winter and discuss procedure, or do we send you down there to keep an eye on what is going on? Do you ask questions about how much people make?"

The exact same people who will rake us over the coals for what we pay to the president of a company and who will rake us over the coals for what we pay ourselves will probably give us the same argument, "Do not ask me what my salary is because that is all private and confidential and part of a business venture."

We get caught. We get whiplashed. As to the answers we got here, if I were knocking on the door of General Motors or any other company in the private sector I would have to take that answer, that it is private and confidential and offers a commercial edge, ta-da, ta-da, but the end result is, "It is none of your business." Where public moneys are involved the answer, in however polite terms it might come, that it is none of our business, is not acceptable.

What I am pointing to is there may well have to be clear lines drawn about when public money is involved, how much information can you get out of it, and at least go through that argument almost on a theoretical model so the lines are clearly drawn as to what the public--for \$6 million, how much can we find out about what this venture is doing? For \$10 million, can we find a bit more?

To say the board knows, but we are not allowed to know, does not please me a whole lot. Do you understand the area I am trying to get into here?

Dr. St. John: I understand the area you are getting into and, as I see it, it gets into the area of general government policy on the crown agencies, on release of information, on freedom of information, on the confidentiality of sensitive commercial material and so on.

Mr. Breaugh: Sure.

3 p.m.

Dr. St. John: We must respond to general government

policy in that area. At the moment it is my understanding that, if it is commercially sensitive, government policy accepts there are certain things which it is acceptable to keep within the control process of the government. In other words, the board, the chairman, the minister and so on are aware of this and we respond to the policy environment we are in.

Mr. Breaugh: From our point of view, if we all wanted to get very formal about this process, which maybe we should, a committee of the Legislature such as this does have some very old, funny, traditional powers of calling before it witnesses, which technically you are today. In this committee we have gone through some quaint discussions about whether we should do what the Americans do, swear everybody in, make them look like witnesses, tell them they are witnesses and make them aware of what it is to appear before a parliamentary committee.

In the Canadian experience we are much more casual than that. Once in a while, when someone is threatened with lawsuits, and there is that kind of stuff going on, we get out the Bibles, the oaths and all that and people swear things, but it is a very unusual circumstance for the most part. We are far more casual than even the Americans. It is difficult for me to recall the last time a witness before a committee was asked to swear he was going to tell the truth, which is an interesting thing.

If you think they have not told the truth, what can you do? For example, if this committee wanted to find out the salary of the president, we have a traditional parliamentary right to seek a Speaker's warrant and to get that document. Every once in a while that kind of stuff happens, but it is a very awkward process. That is not to say there is a smooth, ongoing relationship between committees of the Legislature and agencies of the government out there.

I suppose theoretically we could do that, but it would certainly be a dog fight. The first order of business would be to try to convince the two government members who are following this conversation very carefully that we ought to issue a Speaker's warrant to gather this information.

Mr. Chairman: Mr. Breaugh, would it help anything if we went in camera?

Mr. Breaugh: It would help me, but it would not help the people I represent. I am trying to point out there are no rules in this.

As the chairman says, if it were a matter of the five or six members of the Legislature in this room at this time wanting to know what this guy makes, we could probably close all the doors, shut Hansard down and he could whisper in our ears or pass a note across the table and that would be the extent of the job. But that is not the job of members of the Legislature. Our job is to put on the public record what this guy makes, how much money we have invested in this corporation and what the rules of the game are. I am not here for me personally. I am here for the people I represent in a much broader sense.

The mechanism to carry out my job is extremely limited and old-fashioned. I am wondering whether we should spend some more time on this kind of problem.

It seems to me that in the Ontario experience, what we wait for is some kind of a stink of sorts, some major scandal, someone buying a boat with government money or a house in Vancouver or belonging to a yacht club at Bath. I never really felt when I was growing up in Napanee that belonging to a yacht club in Bath would be viewed as a major scandal, but it was not too long ago. We are not equipped to handle that.

I want to know, because you are into or on the verge of getting the government of Ontario, through one of its agencies, into a whole other area where the accountability factor is not really dealt with, where simple questions like this--for example, I am in a quandary just now. Do I pursue your tail around the block to find out how much this president makes, which seems to me not to be a terribly relevant piece of business?

We have asked the question and we have been told it is regarded as commercial and thus confidential, which is a bit of an insult, quite frankly. I understand why the insult was offered. It was done in very nice terms, but we did ask the question and we do have a legitimate right to get a legitimate answer. Saying it is commercial and highly confidential is not a legitimate answer in my view. So what do I do?

If I drop it, I am sure government members will come back at me in three or four months' time and say: "You jerk, you had a chance to ask the question. You asked the question and they told you to get lost and you accepted that, so it must have been okay." If I pursue it, three or four months from now the government members will say: "You are really chasing the tail of a very small dog there. It makes no difference to anybody in the long run." So I am in a bit of a quandary here.

I would enjoy hearing Mr. Macdonald's response to that kind of thing because he has been around.

Mr. Macdonald: I appreciate the quandary. Having fairly strong views personally about questions of public accountability, when this corporation was established and when in turn the business practices were approved, I certainly raised with the government the question of its expectations in dealing with this type of question.

I was told we were to be created as a corporation, to behave as a corporation and to perform according to the standards of business practice that go with that, and that the responsibility of the board was to ensure those practices were observed. That is an easy thing to say as far as a process is concerned, but the one thing it leaves unsaid is how one reconciles that with the expectations of public accountability which are quite properly being raised here.

I do not know whether--I say this in genuine doubt--that is a question we can resolve here or should try to, or whether this

is a question we should be taking up again with the government because the heat is being put on us about this.

Mr. Mancini: What guideline or policy does the government have in print where it says, "Please do not release this type of information"? Where can that be found or read?

Mr. Macdonald: I am not aware of any guideline or policy dealing with that explicitly. When this corporation was established to be in the venture capital business and then, in turn, to go into partnership with private investors and the private sector, it was made clear we would be expected to behave according to the practices and standards of that community which, as Mr. Breagh has made clear, is a different community from the public community and, in turn, has created a public-private hybrid for which the rules of neither side are a comfortable fit. We have the other side of the dilemma you have. I do not know how to resolve that dilemma.

Mr. Mancini: Has a minister told you not to reveal this? Is that what you are telling us?

Mr. Macdonald: Our requirements are not to do those things which will make it impossible for us to honour our obligations, and our processes and relationships with those partners with whom we are dealing in the private sector.

Mr. Breagh: The nub of the problem is right in front of our noses. This committee is here today to look at an agency of the government of Ontario and to try to make a judgement as to whether it is functioning well, if it is accountable and what its relationship is with the government and the Legislature of Ontario.

Does it have a clear understanding of what it is supposed to do? We can answer some of those questions, but when we get directly into the accountability factor, to be told this is confidential--it would be pretty stupid on our part as a committee to say: "That is confidential. We will not touch that." There is a problem that has to be recognized now.

As the IDEA Corp. further develops and perhaps becomes successful at some time, the details of your arrangements with the private sector are important. If you come up with the great concept which gets developed three years from now through the Ansam agreement and piles of money are made, are we to sit back and say, "This is all confidential, so people in Ontario are not allowed to know how big the pile is, what your share of the pile is, how you made the pile, what you sold, how you sold it and whom you sold it to"? Those are legitimate questions.

We ought to have in place a procedure that at least allows us to sort it all out and say: "This group of questions is legitimate for this committee to ask today. It is clear IDEA Corp. has to provide that information, and we do not want to bother with Speaker's warrants and all that stuff. Those are the rules of the game."

3:10 p.m.

An area may well be carved out where we all agree you cannot release this kind of information, it cannot be a public document or whatever. But as Mr. Mancini points out, we do not know whether some minister sat down with you and said: "Just tell these guys to get lost. Be polite, but tell them that and that is it." We do not know that, and I think we have a right to know.

Mr. Macdonald: Mr. Chairman, perhaps in fairness to the committee and its members and in fairness to the corporation those rules have to be made more specific.

Operationally, and Dr. St. John can comment on this, it may be a question of timing. I think there is a difference, and probably members of this committee would agree, between being in the middle of the negotiation of an agreement for which there could be competitive advantages or disadvantages in other parts of the market if it were conducted in public, and having Ansam Synergistic Technologies Ltd. set up and then being asked: "Exactly what are the arrangements within that syndication between the IDEA Corp. and the other partners? What are the forms of accountability, what are the risks and what is the profit sharing, or what have you, in all that?" Maybe this is the kind of distinction that has to be drawn.

Mr. Breugh: Okay. Let me just pursue it a bit further, because I think it is important. Rightly or wrongly I think it is my responsibility to have some clear understanding of what this investment is all about. I have a somewhat clearer notion now than I had this morning when we first got this staff report, or last week when we got a second one or a couple of weeks ago when I got the first run of the research document; but it would be wrong for me to leave anybody with the impression that I really understand what this agreement is all about, because I have not seen the agreement. I do not even know the principles that are involved; I do not know the ramifications of it all.

It would be fine if this were private money and if it were clear there is a profit motive and we do not care what we make as long as we make some money. These are the rules of the game; everybody understands that. But three years from now if this company or any of the others you have mentioned develops a product, for example, that has to do with nuclear warheads or something, somebody will trace it back and say:

"Listen, you jerk, you were on the procedural affairs committee when they first said, 'We have put some public money into this company.' Did you not ask the logical question about what that company was doing, what products it might develop, what its potential was? You have said for so long that you are in favour of peace, against war and wonderful things like that. When you had an opportunity to examine how public money was being invested in Ontario, you accepted the notion that this was confidential information and could not be said."

You have me in a bind right away. I am aware the potential is there, because of the kind of work you are doing, to get us into all those fields, and I feel the obligation to ask the

unanswered questions. I am a little saddened that by mutual consent they may have to be left unanswered. I think all of that is important.

Mr. Macdonald: If I may speak a little to that, the nature of the fundamental controls in each of these agreements has been outlined already in that none of these funds will be able to make an investment without our approval, for example. The exact structures used vary from fund to fund, but that has been consistent through all of the funds. I think the essence of what I have said to you is that the procedures are in place for control, but since we are just starting, of course, experience and the use of these procedures will be required to demonstrate that control and accountability are in place.

We have examined the flow of accountability and the legal requirements for ensuring accountability down to the extent I have described in the slide show to ensure that we do have a veto on investments, that we do have a first refusal on the exits from these funds; so in essence they are fairly tightly controlled in what they can do. If a nuclear warhead proposal came to an Ansam or to any other fund, it is fairly obvious that we would state it would not be in the fund's interest to attempt to proceed with that investment because they would have a very angry shareholder; and we would prevent it from getting through the executive committee, so it could not even reach that fund for it.

Mr. Breaugh: Okay. I will pursue it just slightly further. I am acutely aware that the world is a little more complicated than that and that you may well be developing concepts or products here that have a commercial use to which none of us would object and perhaps a military use to which some of us would object, and it is my job to find out those distinctions.

It is fine for you to say the board of the IDEA Corp. thinks this is all hunky-dory and that it saw it; the fact is that it is also my job to have some knowledge of what is going on there, whether I actually do or not.

To be quite blunt about it, I would be surprised if the board of directors or whatever of the IDEA Corp., which is a fine listing of a cross-section of Ontario's community, really knew all the ramifications. I have been in government and in the public and private sectors for some time now, and I know you very often have a very fine-looking board of directors who attend the very fine annual meeting and read the very fine annual report but really do not have much of a clue as to what exactly is going on there.

That is not an unusual situation. I do not mean to be derogatory towards anybody's board or anything like that, but this is just the way the world works. Levels of trust are built up that your staff will not get you into hot water, that they will do the right thing, and you have access to some information but not all.

We are getting into a very complicated piece of business here, which makes me, in a sense, a little bit uncomfortable. At a beginning stage of a review of how your agency works we are already running into stumbling blocks that could lead us down the

road to very complicated areas. We are supposedly responsible to the Legislature and to the people of Ontario for getting this information out on the table, and we are unable to do that.

I really think we cannot just leave it as it is; we have to delineate further under what conditions something like an IDEA Corp. might operate. I really think this is awkward for us.

Dr. St. John: I sympathize and, as the chairman and you yourself have noted, we are in the difficulty of being between the two sectors, of trying to operate in an extremely difficult boundary area.

Our fundamental problem in IDEA in this issue is that we are attempting to operate in an extremely competitive environment where intellectual property, simple knowledge of what a company is attempting to do, is of great value. Were we to be placed in a position where any of that information could be taken from IDEA Corp. and placed on the public record, with or without our sympathy for that process, I think it would be fatally damaging to the relationships we would attempt to develop with the private sector.

If we had to say to anyone coming in with any innovation, any idea, that all aspects of the arrangement could be placed on the public record whether we thought it was a good idea or not, that it was completely beyond our control, I would be very surprised if anybody with a substantial innovation, anybody with a substantial, complex and subtle business plan would want to deal with us; and therefore the long-standing divorce between the public and private sectors in this country would be protracted. They simply will not tell us if there is a danger it will be released or taken from us.

The details of the concepts of the business plans of these venture capital funds would be of great interest to the other funds--quite apart from our other funds, to other funds on the street not related to government. If this process were opened so that they would tell us what they wanted to do and we by definition would be required to reproduce for the public record the concepts of their business plans and of their approach in the agreements because those are the terms and conditions under which we would invest in them, I should think if I were in their shoes I would not want to deal with this agency, because nothing you said could be guaranteed to be kept from your competitors. Sometimes simply the idea of the business plan of a venture fund is the kernel of its ultimate success; it is what is going to start it.

Mr. Breaugh: I am aware that other nations have tried to resolve this problem, and many have to their own satisfaction; I am not sure it would be to our satisfaction.

Let me just end on this note. I look at a very nice-looking brochure that says, "This is the annual report of the IDEA Corp." I really want to know what the IDEA Corp. is doing. There is not very much in there. There are some nice pictures, there are a few numbers and there is reference to people in the private sector and to some agreements that have been struck. But it does not tell me

what the IDEA Corp. is really doing; it does not tell me basic information such as we asked for this morning; it does not really tell me what I am getting into, and that is my concern. I do not have a mechanism to do that unless, as you say, we might run the risk of blowing everything wide open.

3:20 p.m.

Perhaps this is what should happen. Traditionally the private sector says to government, "Just give me your money; do not ask any questions," or, "Just write legislation that totally protects my industry, and then get away from me." Somehow we will have to arrive at some better definitions of the rules of the game as to what should be public knowledge and what should not, what a member of the Legislature is entitled to receive in the form of information and what a committee is entitled to get. We have not even approached that yet. It concerns me no end.

Dr. St. John: I sense you are talking about a much bigger problem than IDEA Corp.

Mr. Breaugh: Yes I am.

Mr. Mancini: Mr. Chairman, this is the only time I have found it embarrassing to question a member of an agency, commission or corporation who came before us about salary. I found Dr. St. John's ability to answer questions and deal with us openly quite good. We have a good man at the head of the corporation and for some reason that caused me some embarrassment. It never has before.

I do not know if all the members of the committee view it this way, but sometimes after I have finished I think I have been too rough on people who have come before us. But I guess sometimes that is the only way to get direct information.

While I agree with what Mr. Breaugh has said--I guess maybe we will just leave it at that.

I recall when we had TVOntario in, two or three years ago I believe, and it had hired James Laxer to do a program, it really surprised me that a Tory-blue government would hire such a raving socialist.

I kept asking the chairman of TVOntario what Mr. Laxer was making. I wanted to know how much they were paying him because I felt they had kind of bought him off really. We got into a long debate on it and about a week later I got a letter from TVOntario telling us what his salary was. I do not remember anyone else being interested at the time, so I will just leave that with you.

Mr. Breaugh: Just to set the record straight, Mr. Mancini is quite correct. I believe I was chairing the committee at that time. He asked TVOntario what Mr. Laxer had made and the committee had several deliberations about whether we would issue a Speaker's warrant and all that. Finally, I simply called the chairman of TVOntario and said: "Listen, we are going to get this one way or the other. Either we issue a Speaker's warrant, which

we are reasonably confident we can get, or you send to the clerk of the committee a letter which tells us how much Jimmy Laxer makes."

In the end, they decided that was the sensible, easy way to go and all members of the committee got the same letter. But it is a good example of precisely what we were trying to deal with. We do not have easy, effective mechanisms to do this.

Mr. Rotenberg: It could only happen in a minority government.

Mr. Breaugh: In the good old days.

Mr. Mancini: It is getting on in the afternoon and I have a few questions. Sometimes my questions end up being statements, so if I end up making a statement and you feel like commenting, please go ahead. I will try to ask the questions at the same time.

For some reason, I kind of feel that in one way you are not getting enough money to be really out there with the big guys and in another way you may be getting too much money for what you are doing or what you are going to do. For example, I believe the researcher's report stated, and maybe your own information stated, that by 1987 you will have received \$100 million. Is that correct?

Dr. St. John: It is \$107 million, yes.

Mr. Mancini: I was thinking to myself, \$107 million; if that is leveraged to its full extent, you might get \$5 for \$1, so we are talking about \$500 million from 1981-82 to 1986-87.

Is that a lot of money for research and for venture capital in a province of nine million people? To me, that does not seem a large pool of money when I read in the financial pages that some insurance companies have these tremendously large pools of money they inject into the stock market at certain times or into bonds at certain times, and the figure is hundreds and hundreds of millions of dollars on a yearly basis, it does not seem to me that you really have the financial clout to go out there and do some of the good things you are talking about.

At the same time, when I view it the other way, you are probably getting too much money, if that is the case, to fool around with all these little guys and with the occasional university. I was just wondering what type of impact \$107 million has on the economy of Ontario.

Dr. St. John: I can address that, perhaps, by making some comparisons. We are talking about \$100 million over five years, or \$20 million a year as a flow. It is being handled in a complex way, as we described.

To make some comparisons, the Natural Sciences and Engineering Research Council in Ottawa grants \$260 million a year to Canadian universities for research; the Medical Research Council of Canada grants another \$140 million for research. So you

have a federal granting pool to the universities of about \$400 million per year generating research and early-stage development that is not particularly targeted on commercial significance; it is fundamental research and so on.

Out of that may come certain innovations that are of interest. IDEA's money, while apparently small by comparison to the size of the private sector economy, is being very carefully targeted on that very small percentage of the technology generated by this process that is of commercial significance. A revealing number to compare us to the spectrum out there was presented in the slide show: 80 million new dollars were syndicated in venture capital in 1982.

But a very interesting number is the United States example of the venture capital industry. In the US in 1983, \$2.5 billion in new venture capital came into the marketplace; in 1982 the figure was \$1.76 billion. This is new capital going into a venture marketplace that by the end of 1983 was estimated to have \$7.5 billion in place.

To take again the example of \$2.5 billion going in, we are talking of an economy nearly 15 times the size of ours and a population 10 times as large, so something of the order of \$200 million a year of new venture capital would appear to be a logical amount of money if the Canadian economy were identically structured to the US economy.

We have seen very rapid growth in the venture industry in the US, and it is by far the most sophisticated in the world. The Europeans are trying desperately to copy it in all European countries, and the European commission is attempting to stimulate similar industries over there.

Supposing we notionally think that \$200 million in Canada would be an equivalent venture capital industry if this new money were reaching us. IDEA Corp.'s \$20 million, syndicated up for the most part so that you are looking at something like a \$60-million pool being generated on an annual basis--I will grant that the structure is different with respect to the flow, but it is that kind of thing we are talking about--and then being specifically targeted to drag early-stage innovation into the venture marketplace, is not out of line, in my view, given the size of the economies. In Canada entrepreneurial dollars and entrepreneurial people are attracted very heavily into the resource industries, far more heavily than in the United States, so you have to take that in comparison for risk dollars as to where they go.

The US venture capital industry has effectively run out of late-enough-stage deals to mirror its former self and is automatically starting to reach down to the universities for earlier-stage innovation. An equivalent process does not appear to be happening in the Canadian economy, so IDEA has been targeted basically to force that process, to make it happen, to move out those early-stage innovations, since it does not seem to be happening naturally in the private sector.

I think the dollars are within the range of what you would expect in an economy this size.

Mr. Mancini: So you are saying, then, that the investment is significant and will have a large impact on the province?

Dr. St. John: We believe the investment is significant and we are hoping through the leverage techniques I described to have a very large impact, much larger than would appear from a \$20-million-a-year flow.

5:30 p.m.

Mr. Mancini: You mentioned a good point about the resource base of our economy. Just before I get into that I want to mention that we get statements on a bimonthly basis from Ontario Hydro. They inform us how many millions they have spent in the last two months by letting out contracts, and usually it is anywhere from \$40 million to \$150 million or \$200 million. It was those types of figures that led me to ask the first question.

When we are talking about the resource-based economy, I do not think much has changed with respect to the machinery we need for the resources; by that I mean we are still importing the machinery to mine our own resources. Have you been doing any work in that regard, so that we could build, here in Ontario, the machines we could use in the northern part of our province or anywhere else where we would be doing any significant mining?

Dr. St. John: I have two comments on that.

First, there is another project under the Board of Industrial Leadership and Development, the Resource Machinery Development Centre in Sudbury, which is specifically targeting that. We have not received very many proposals that relate to resource machinery, although we have seen a few, but they are concentrating very heavily in that area and attempting to develop it.

I have another observation which is rather spurious to IDEA Corp., but it struck me as quite fascinating and it may be of interest to the committee. A mining executive told me recently that because of the structure of the Export Development Corp. and the way it operated, it was extremely easy for Canadian mining machinery manufacturers to sell overseas, but they did not have the same support available internally in Canada.

Further, other countries have similar programs for their exports, so it is very easy for a Japanese machinery manufacturer to sell in Canada, much easier than in Japan.

As a result, we have a situation where Canadian industry is running on foreign machinery and foreign industry is running in part on Canadian machinery, an arrangement which has been induced by these exports programs. I found all that rather illuminating; I had never thought of it before in those terms.

Of course, we will pick up projects in that area if possible.

Mr. Mancini: That is surprising. I do not know where these machines are being made. Is there any particular part of our country where--

Dr. St. John: I think you are mainly talking trucks and drills and things like that, which may be sold under EDC grants to Panama and other places.

Mr. Mancini: We talked earlier about the Agmen fund. I am quite interested in that. A good part of my constituency is rural and new technology is very important to the agricultural community for several reasons. People just do not want to do farm work any more; that is a known fact. Although I would say there is 14 or 15 per cent unemployment in Windsor, farmers in my community have to import labour in order to ensure their crops are taken off.

I guess part of that is due to the fact farmers cannot compete at the same wage level other companies can. I do not know, when you are unemployed maybe that is not something you would take into consideration, but I guess it is taken into consideration in today's society.

The farmers I represent want labour they would consider available when it was needed; therefore, we are into this terrible situation where we have high unemployment yet we import farm labour, and the federal government of Canada is slowly but surely cutting off that source of labour.

For example, in the tomato industry many of the farmers are going from hand-picked tomatoes to machine harvest. I have personally received several inquiries and had meetings with several people on how to improve the machine harvester in order to ensure the tomatoes are picked without damage or to separate the green tomatoes from the red tomatoes. I have sent these people to the Agricultural Technology Centre in Chatham, and I am not so sure that they were pleased with the outcome there.

Are you doing any work in this particular area? Have you had any inquiries concerning improving agricultural equipment and implements, and do you work in co-operation with the centre in Chatham to any great degree?

Dr. St. John: They are somewhat behind us also, as an early-stage organization, and I hope we will be working with them. We have certainly made contact and discussed mutual interests. As I said earlier in the day, that could be a major vehicle for us, to get into the farming community and the agricultural industry generally.

They have mentioned a number of things they are looking at that could be of interest. None of them has progressed very far yet, but I hope the Agmen fund will become active in that area.

One of the problems is a general comment we frequently hear with respect to agricultural machinery, that the production runs

for some of the very specialized machinery are extremely short. One I heard of was a slightly different application, but they saw the possibility of making maybe four machines for Ontario. It cost maybe \$300,000 or \$400,000 to develop the technology and the machines could conceivably be sold at \$50,000 each. It is a difficult question as to whether one should proceed on such a thing or not; one tends to seek things that have large scale applications.

Mr. Mancini: What are you doing for the backyard inventor; what can you do for the backyard inventor?

Dr. St. John: Our experience is very interesting. We saw very few backyard inventors until that Star article I mentioned a while ago that referred to mousetraps, at which point we saw a lot of them very suddenly and it caught us somewhat by surprise.

From my previous experience in the venture capital industry, I was struck by how few of them we were seeing. I used to get a regular flow in my last company. Some of the ideas are really quite marvellous; and some of them marvellous in various other ways.

The flow that came in--as I said, the Monday after the article appeared we had about 40 of them, and from then on there has been a steady flow.

There is the Canadian Industrial Innovation Centre at Waterloo that does an inventor's evaluation. We are, as I indicated earlier, in the final stages now of negotiating an arrangement with them whereby we will refer these inventors there for evaluation. The first stage evaluation is very cheap and the inventor will be expected to pay for it himself.

Mr. Mancini: What if he cannot? What if you think he has a good idea and he cannot pay?

Dr. St. John: What was the number, is it \$150?

Mr. Chudy: It is \$150.

Dr. St. John: For \$150, or something like that, they do the evaluation; it is subsidized by the federal government.

If we think he has a good idea and he cannot pay, obviously we pick it up right from the beginning, but I believe that centre established that policy on the initial charge to eliminate absolutely spurious requests, so there would be at least a little bit of a hurdle, \$150.

If it survives that and looks good, then under the arrangement we are negotiating we will subsidize further examination by the centre at Waterloo. If it continues to look good through that, we will move it directly into our process and start doing detailed market evaluations and so on.

I think in this way we will be able to respond to them; but as I said, we were literally caught by surprise, we just had not

seen them before and all of a sudden they appeared in droves, and they are still coming.

Mr. Macdonald: You were mentioning the time the evaluations were taking at Waterloo.

Dr. St. John: Can you help me, Lorne, with the time--

Mr. Chudy: The first cut takes--not very long, a couple of weeks, and then it may go for a couple of months to turn them around.

Dr. St. John: They put through hundreds per year; they are set up for it under a federal grant.

Mr. Mancini: The biggest complaint I receive from backyard inventors is--and of course they do not think the same way scientists think; that is why they are inventors and scientists for the most part are really not inventors, in my view they are more scientific and they study things in a narrow range.

The biggest complaint I get from backyard inventors is that they take their invention to a scientist who looks at their invention from a rational point of view. If you do that you cannot be an inventor, they feel. How do you convince a backyard inventor, who firmly believes he has a good product, and who may indeed have a good product, that his product has been looked at from several different viewpoints and not just from a theoretical, scientific--

Mr. Macdonald: We will have to produce some irrational scientists.

Dr. St. John: I wish I could remember the origin of the quote, but I was struck once by a quotation that a discovery by definition is at variance with existing knowledge.

This is a problem. When an inventor meets a scientist, if the inventor has really found something the scientist might well miss it. It is something I have leaned hard on our people to consider.

Do not pay attention to how he looks, how he presents himself and what he thinks his widget is doing, I tell them. Look deeper, because most of the great inventions of history have looked absolutely ridiculous at the beginning. They have generated claims which were patently ridiculous at the beginning. We try to look beyond it. Even if it appears to be a perpetual motion machine, we try to dig in and see if he has actually discovered some principle that has been missed.

3:40 p.m.

There is a long and fascinating history of invention which discovers principles which are at complete variance with the scientific knowledge of their time.

Mr. Mancini: As long as we give the individuals a fairly in-depth hearing, I do not think we can do much more than that.

I have had a lot of discussion with different municipal officials and others in the constituency which I represent about the growing problem of waste, garbage. In Essex county we have three huge dump sites--I am not sure if it is grade 1 agricultural land but it would probably be suitable for good agricultural land--and we just kind of dump all the garbage out there and cover it up. Then we take a few more acres and dump the garbage there and cover it up.

There is technology being used in Europe and different parts of the United States where a lot of this waste is being burned up, used as a means of energy, kind of condensing the whole problem into one small spot and not taking up hundreds of acres of land.

I was surprised recently--I was not surprised and I was not impressed; I should say I took note of a proposal that was made before the municipal council of the town of Amherstburg where a group from the United States wanted to use some technology that is available to build a huge waste power plant to generate energy. It would be built next to an existing operation that needs a lot of energy.

Nothing has moved along on that, I think principally because the project cost \$35 million and they wanted most of the money from governments. That is probably one reason it has not moved along.

Are you doing work in this very important area? We have not come to grips with this problem yet because we have a lot of room, but that does not mean we should despoil our land when we do not have to.

Dr. St. John: I have a lot of sympathy with what you are saying. I have a background in environmental management and I am aware of some of the problems in the area.

I guess there are fundamentally two reasons to look at waste disposal technology in the general sense. From IDEA's viewpoint, we are looking at an innovation which will develop employment and jobs and so on. Of course, there is a major public policy interest in the disposal of waste itself.

We have seen, I would say offhand from memory, about 10 to 15 proposals out of some 350-plus that we have passed through. We have seen proposals in that area before, most of which have had some economic problem, basically, in their application.

Mr. Mancini: The people from Amherstburg have not been to see you, have they?

Dr. St. John: I suspect they have. When there is a major energy generation aspect to it, usually the Ontario Energy Corp. has a look and, of course, there is also the Ontario Waste Management Corp. There are a number of agencies of the government involved in this process as well and we feel it is not our mandate

to second-guess the Ontario Waste Management Corp. in that public policy aspect of waste disposal, so we tend to look at it as a fundamental innovation.

Mr. Van Horne: Mr. Chairman, I do not want to see this disappear down the road before I interject. I understand that my community of London, Ontario, is the only one in the province that has something going on right now. That is an energy-from-waste plant at the new Victoria Hospital site, which is on the Westminster campus of the old Westminster Hospital.

I am not sure if you were involved in that at all.

Dr. St. John: No, we were not.

Mr. Van Horne: It was just the energy corporation.

Dr. St. John: Fundamentally, from a worldwide scale, when these waste plants tend to be put in practice it is usually driven by energy economics. If you get a community in which, for one reason or another, energy is exceptionally expensive, be it a Third World situation or a remote community, that tends to drive one of these projects to completion more quickly. If it is in an area where energy is relatively abundant and cheap, it tends to not happen.

In British Columbia there have been long discussions about using the slash from the timber operations out there to produce waste, but hydroelectric power is so cheap that it just really cannot compete, and this has tended to inhibit these developments. Unless there is a major public policy push from the government to force the economics into that area, then typically they have not advanced.

The other economic force that tends to induce a reaction here is a byproduct factor. If the processing of the waste produces a valuable byproduct, then you will find capital attracted to it. I have seen a number of areas that concentrate on recycling waste when there happens to be a component of precious metals in it, for example. A little bit of gold or silver will drive the whole process and they will happen to dispose of the waste along the way. Others are working in the area of fertilizer or animal feed.

Mr. Mancini: What about environmental concerns? Is that not driving our society to--

Dr. St. John: It is very much driving it to look at the problem. Environmental regulation can drive a project through, and entire industries have been built on environmental regulation.

There was a major setback to the environmental technology industry, of course, when the United States slackened off in its policies a few years ago. I am aware of a number of companies that were going full blast, expecting they would sell certain kinds of technology into the US market, and all of a sudden the orders disappeared because of an alteration in regulations down there. Once again, as unfortunately happens so frequently, the United

States market drives the basis of the innovation in Canada.

Mr. Mancini: Can I ask you to check your files to see if you have had correspondence or meetings on this proposal in the Amherstburg Echo? I would appreciate some correspondence from you on that, because I want to be as up to date as possible on that particular matter.

Dr. St. John: Certainly.

Mr. Chudy: Amherstburg Echo?

Mr. Mancini: Amherstburg is the town; the Echo is the newspaper.

Dr. St. John: We will certainly look it up and get back to you on that.

Mr. Mancini: I would really appreciate that.

Are you in any way whatsoever involved on your own or with any group, not perhaps to produce a new engine for the automobile but to do something to increase its energy efficiency? It seems that everybody is in that field.

Dr. St. John: Everybody has one, eh?

Mr. Mancini: Yes, but not doing anything about it, really. When my wife bought her Horizon we were told it would get 40 miles a gallon, but it gets only 28, which is really not very good. Lee Iacocca is such a great salesman that you can hardly--

Dr. St. John: Now you are seeing what really drives technology.

Mr. Mancini: Yes. You can hardly stay at home without running out and buying one of his cars. Are you doing any work in that area?

Dr. St. John: We have seen a number of proposals for engines. One of the things that has fascinated me over the years in the innovation development business is that there is a certain class of proposal to improve the internal combustion engine that just will not go away. These guys keep surfacing and they are absolutely ingenious with what they have. Sometimes there is some evidence it might work.

I think in that particular sector, the internal combustion engine, we are all going to pay the price of the Wankel experiment for many years. The Wankel, you remember, was the rotary engine.

Mr. Mancini: Please bring me up to date. I am not familiar with it.

Dr. St. John: The Wankel was a rotary engine that was originally developed in Germany. It is hard to describe how it worked, but it was a flat device in which there was one rotating part that would set off the explosion separately as it went around

its rim instead of having pistons going up and down. The Wankel engine was adopted by Mazda some years ago.

Mr. Lupusella: BMW.

Dr. St. John: Yes, BMW really started it with some effectiveness. Mazda went very heavily into it, and it almost drove Mazda under. In fact, they still sell Wankel engines in the RX-7.

General Motors got so excited about the Wankel that I can remember reading a few years ago that GM expected all their cars would have Wankel engines within a couple of years. It was going to displace the piston engine and everything.

Then they discovered major problems with the seals, and there was a huge amount of work trying to develop ceramic seals. Effectively, on a larger scale it was the problem of the rings going in a piston. They just wore too much; the seals did not work properly. Mazda almost went out of business and managed to survive it with a new, first-class line of cars, but all the big guys pulled back and went back to modifying the present internal combustion engine, altering the materials and so on.

3:50 p.m.

The most spectacular innovation we see coming there, and one that is of substantial concern to the auto industry here, is that the Japanese have now developed an all-ceramic engine. It is made entirely of ceramics and has no metal in it whatsoever. Because of the ability of ceramics to withstand very high temperatures without expansion the engine does not require a cooling system, so it is extremely light. It runs at 700 degrees in temperature, and it is extremely light-weight and therefore improves the fuel mileage. Also, the very high temperature of the engine block itself ensures a very efficient combustion.

What we have seen is a pull-back from modifications to mechanical technology in internal combustion engines and new materials now about to make their entrance. It is my reading that a lot of the innovative uses of pistons that we have seen in the marketplace coming to us--there are four or five of them that I have seen go through in the last year or so--really do not have much hope unless they can be readapted to the new materials. We are very much in a catch-up situation there with what the Japanese are doing.

Mr. Lupusella: If I may, I recall this issue about the BMW engine, but we are talking about the industry sitting back. The engine was not really working properly. When I followed the issue it appeared that other industries were more involved in spending money on the electric engine. As far as I recall, this was the main reason. I do not know if it was true or not.

Dr. St. John: The electric engine? That is another story which I can develop a little bit. You are quite right. The electric vehicle played a part in the demise of the Wankel engine because there was a perception at that point of a major shift to

electric or hybrid vehicles, which is a combined electric-gasoline vehicle, in the late 1970s because of a regulation in the United States which enabled the major auto makers to average in the fleet mileage of the entire sales of their fleet.

They could practically give away electric cars at cost, if they could sell a Cadillac that got five miles to the gallon or something like that and then average it together and get an acceptable reading. The US Department of Energy allowed 200 miles per gallon mileage rating to electric vehicles, so they could average that in. That again played a part in the demise of the Wankel, which was fairly fuel intensive.

Mr. Mancini: We keep hearing on a regular basis where people have discovered some way to alter the existing engines to get 80, 100, 150 miles per gallon. I have heard or read stories where people have actually bought a car from a regular dealer and they are driving around getting 200 miles a gallon, then suddenly somebody from one of these corporations calls them and says, "Hey, you were not supposed to have that car."

Are these things just like UFOs, or are these things for real?

Dr. St. John: I believe that for the most part the stories are like UFOs. I have heard some interesting stories. Hybrid vehicles are one of the most interesting. To start with, you have to recognize that in the United States auto industry in particular there has been for some years an enormous incentive for the automobile companies to get high mileage. That incentive has had a massive effect on down-sizing and new materials and everything else.

If they could put some neat little widget on and get 200 miles to the gallon, they would. I assure you, if it was patented --and there have been rumours of people buying patents--the nature of the patenting process is that once it is patented it is virtually public domain. Anybody can get the patent. There is the diagram of how to make it. For issuance, a patent must describe sufficiently how to make the thing that anyone can copy it. The fact that nobody is copying it, the fact that the big companies are not using it, leads me to believe that these mythical carburetors are just that.

We looked very closely, in a former company I was involved with, at a technology which was a chemical material that, if poured in fuel tanks, was claimed to get a substantial improvement in fuel efficiency. We dug very deeply into the statistical analysis that led to those claims and concluded they were false. There had been a few spurious readings created, who knows how, and they had misrepresented the statistics.

One of the most exciting comparisons, though, is the hybrid vehicle where a small gasoline engine running at a constant speed can be used to charge a battery which then drives electric motors. I was told some years ago by a vice-president of Exxon Enterprises that they had put one of these hybrid units together and achieved

80 miles to the gallon on a Chrysler Cordoba of a few years old, which is quite a large car.

The thing that has prevented the widespread use of this ultimately is economic. At the moment, battery technology is not sufficiently far advanced that this vehicle can play out its life without some very expensive changes to its batteries throughout the cycle. So you save money in gas, but you spend it, oddly enough, in lead, in putting in new batteries every little while through the cycle of it.

A major breakthrough in battery technology would have an extraordinary effect on the availability of hybrid vehicles and would change the world energy economy. I do not think they would use straight electric vehicles because when an electric vehicle runs out of power, you have a problem. You cannot refuel it instantly. The reason liquid-fuelled vehicles are so popular with the marketplace is there is an instant recharge. Put the thing in and fill it up. The hybrids may take off if there is a sufficient change in battery technology to allow that.

Mr. Van Horne: What about transmission technology? Is that being promoted now? I think the only alternative for efficiently getting from A to B in a vehicle has to be the transmission.

Dr. St. John: Sure. I believe Ford Motor Co. is working on a very interesting innovation in the automatic transmission to improve it. The most dramatic change in fuel mileage would seem to be in the area of new materials. I personally do not expect cars to be made of metal much longer. I think that will have a substantial effect on the fuel mileage. Then, as the battery technology improves, we will try hybrids.

Mr. Mancini: Just one last question: What is your relationship with the government? Are you satisfied with it? Tied into that, do you receive much pressure from different cabinet ministers or others, saying, "You may not agree with us, but this is what we think you should do"?

Since your board of directors is appointed by order in council, and in my view is somewhat beholden to the incumbent government, what influence--I will use that word instead--has been exerted by the government on the direction IDEA Corp. has decided to take?

Dr. St. John: Other than the normal approval procedures for the business plan and so on, which we went through earlier in the day, there has been extremely little influence. A number of people have phoned us or referred constituents who had interesting innovations. We have received no direct pressure to do any of the investments. It has usually been a matter of, "Would you look at it?" That is fair ball. We are happy to have anybody from any sector of society, certainly including the government, bring us things and urge us to have a look at them.

Beyond that, as president I am personally extremely

comfortable with our relationship with the government. It has been very understanding of this extremely complicated business area. There seems to be a very substantial willingness to let us get on with the job.

Mr. Mancini: You think you will be able to work with a new government then? No problem?

Dr. St. John: I am very easy-going. I have no problem.

Mr. Van Horne: I would like a supplementary. I think I am next on the questioning list anyway.

I think you people have had close to enough, so I will try to be brief. As a supplementary to the last question, we hear constantly that the government is concerned about northern Ontario. It is concerned about the single-industry community syndrome. It is concerned about innovations in mining. You have made a brief reference to Sudbury and the Board of Industrial Leadership and Development theme up there. I wonder if you could tell us a couple of things, in not too many words.

First, has there been any direction from the government to encourage or promote the kinds of things you do in mining, forestry, northern agriculture, any of those three, and perhaps energy would be the fourth area.

Second, I want to ask about energy generally in the province, going away from the traditional modes and into areas such as solar and housing, where it strikes me there is still a need for better codes on building requirements, insulation factors and house and building components. That may not be a sexy thing, in terms of getting the big buck back.

If there is an impression I am left with today it is that, even though there are ventures that may not be productive, you still have that bottom line profit motive or rationale behind your reason for being. I do not quarrel with that, yet I think at times it might be a little stifling for pure research or for pure development, aside from the profit motive.

4 p.m.

I am rambling a bit, but let me sum up by asking about the northern theme in terms of agriculture, forestry and mining. Is there anything we did not hear so far today that you can tell us? You made a very brief reference to Lakehead University and research going on there, but you did not elaborate on that. Is there anything else you can tell us about what it might be doing? Can you also tell us anything about what is happening in the solar energy field and components for housing?

Mr. Macdonald: Before Dr. St. John deals with some of the details, let me remind members of the committee that in the statute we are directed to look not only at the general economic requirements, but also at the regional and we take that indication seriously.

In related areas, as has been pointed out, there is a great deal to be done here with limited resources to do it. We have tended to expect the Ontario Energy Corp. would essentially be dealing with the questions of energy innovation, although that would not exclude us from going into something we thought it was appropriate to pursue.

As far as the north is concerned, when the Ontario Centre for Resource Machinery was set up, it was given a rather different and special mandate from the other tech centres. It was to have innovation development funds as well. The centre has been concentrating its efforts on mining and forestry. You might pick up, Brian, on the other parts in there.

Dr. St. John: Sure. As to the forestry and mining thing, once again, in our reactive stance now with things coming in, we have seen relatively little come through in those fields. I believe we will be getting into some very major technological areas in those fields eventually. That will be proactive. We will have to go and get the technology and introduce it to the industries.

I am aware, for example, of some very interesting mining technology that has been developed in the Soviet Union and commercialized in the diamond industry of South Africa. That may be available ultimately to drag up from where further development has occurred in the United States. It is going to be very much a proactive program of getting hold of that technology and trying to interest people here in developing it into something. At the moment we have seen little, but there are major areas where I think much could occur.

In forestry, the whole field of genetic engineering and biotechnology could have a very dramatic effect in that industry. Again, I believe we will see technological opportunities developed, probably in southern Ontario, that are widely applicable to northern Ontario. In other words, the university down south could be something that will apply up there.

In the case of Lakehead, we have seen a little medical-related technology. There is a small medical device that would be rather difficult to turn into a business. It will probably be a licensing arrangement. We are working with the university on that. The administration of Lakehead University has asked us to help it develop patent policies and to identify what innovation may go on within the university. We hope to proceed with that as soon as is humanly possible. It is not an old university. It has not been established that long and so it has not developed much yet, but there will be opportunities there as elsewhere.

Could you remind me of some of your other points?

Mr. Van Horne: Solar energy, but before you get into that stream, could you broadly go into agriculture in northern Ontario?

Dr. St. John: We have not had anything submitted to us

from the agricultural community in the north, but quite clearly, the advances in biotechnology will provide some very important developments to support agriculture in northern areas with shorter crop seasons. Of course, northern Ontario is not the only place in Canada that is faced with that situation.

There is a lot going on in Canada generally and a lot going on in Scandinavia to adapt plants, create new species and so on, and create materials and chemicals to work in a shorter growing season. We will certainly be on the lookout for that. There is a very distinct market pull. If you can grow more fresh things in northern environments than you can do at present, there is certainly a market for them because the replacement cost is very substantial when you have to truck them from further down.

As far as solar energy is concerned, that area has become substantially clouded by the oil glut and the reduction of oil prices which, of course, had a tremendous effect on the world economy. It has made most investors back off present generation solar technology and go back to the labs. We see, particularly in the technology of amorphous silicon, the promise of extremely low-cost solar cells on a per-watt-generated power basis; yet we see beyond that certain other potential advances in other materials, which may mean that amorphous silicon is also just part of a step to the final solar energy developments, which will produce a very wide-scale application in solar.

What has happened, therefore, is that there has been a substantial winding up all over the world of commercial development projects in solar and a relapse to laboratory research pending the time when the signals come from the world economy that this will in fact be commercial. My guess is that we will then have an extensive development of solar on the basis of new technology that is not clearly definable at this time. But it is a question of when oil prices start to rise again. There would be nothing like a good scare in the Strait of Hormuz or something like that to start all the solar projects going again, but it is awfully difficult to get people interested now.

Mr. Van Horne: My last point was building components, residential construction--even commercial, if you will.

Dr. St. John: We expect to get into that area. We have seen a number of innovative projects come to us. The component aspect of it, I think, is the crucial one. Construction techniques--modular housing and so on--have been brought to us, people have discussed them; but since there is no obvious place in the industry to put them, the question is, do you want to try to create a giant new company to take on the housing industry. It does not seem to make sense. We are watching the developments in Germany, particularly in this regard.

With regard to innovative construction supply devices, shall we say, we have seen a number of these and we perceive a grouping of those technologies into some kind of corporate or institutional umbrella would probably be logical. Each one of them alone does not seem to be a significant business opportunity, but if you can group a number of them together, get all these guys to play with

each other and then get it into a company someplace, through either licensing or spawning a new company, I think there is a lot of opportunity there. In part I see it driven by the new materials revolution. You will be able to do a lot of things in construction in the future using materials that people have never dreamed of before, particularly plastics and carbon fibre composites.

Mr. Chairman: Thank you. That ending the questions, I would like to thank you gentlemen for being with us today and for lasting out the afternoon, and thank you for your answers to our questions.

Members of the committee, before you go we have two questions to decide. Tomorrow afternoon we were going to review the Ontario Educational Services Corp., and that has been postponed. What do you wish to do tomorrow afternoon?

Mr. Epp: Has that been postponed? I was not aware of that.

Mr. Chairman: Yes. It is postponed until perhaps the next review because it has been amalgamated with the Ontario International Corp.

What does the committee wish to do tomorrow afternoon? Do you want simply to call it a day at the end of the Board of Funeral Services, or do you want to reconvene in the afternoon to start our review of the ABCs?

Mr. Epp: I am sure the funeral services people, being in that business, would be the last ones to let us down.

Mr. Breaugh: We can take tomorrow afternoon to write Herb two good new jokes.

Mr. Chairman: What is your wish?

Mr. Hennessy: Mr. Chairman, we are eventually going to have to deal with it anyway, so if we have a free afternoon we may as well take advantage of it and do it.

Mr. Breaugh: I would suggest we take a first run at the report. I think we will probably be in a position tomorrow afternoon to give John some guidance; then when we come back in session maybe he will have a draft ready for us.

Mr. Chairman: All right, so we will start the draft report.

Talking about two weeks from now, the week commencing March 5, as you know, the whole week, Monday to Friday, was tentatively set aside. We have the review of the standing orders to finish up, and then John will also have preliminary or tentative draft reports ready for us to go through to finish with those. When do we want to meet that week?

Mr. Breaugh: I will make a pitch for Monday, Tuesday and Wednesday. How does that fit in with other people's schedules?

Mr. Chairman: One thing we must finish up is the review of the standing orders; then we can use the balance of the time on the draft report. Is that fair enough?

Mr. Breaugh: I am having a little personal problem scheduling events and things of that nature. I just happen to have been caught in committee a lot between sessions. I have managed to keep those three days free; the last two days of the week I have some problem with.

Mr. Hennessy: Monday, Tuesday and Wednesday in two weeks' time? That is okay with me.

Mr. Chairman: Is Monday, Tuesday and Wednesday of that week satisfactory all around? That is March 5, 6 and 7.

Mr. Breaugh: Yes.

Mr. Chairman: Okay. Thank you. We are adjourned until tomorrow morning at 10 o'clock.

The committee adjourned at 4:11 p.m.

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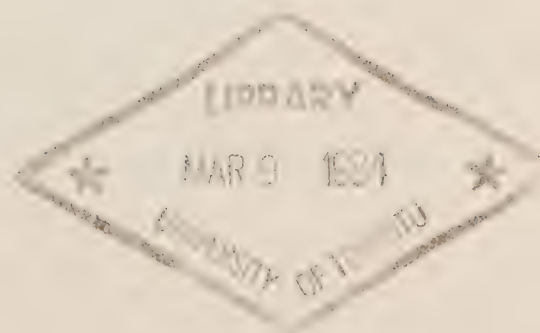
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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
BOARD OF FUNERAL SERVICES

THURSDAY, FEBRUARY 23, 1984

Morning sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Edignoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Hennessy, M. (Fort William PC)
Johnson, J. M. (Wellington-Dufferin-Peel PC)
Lupusella, A. (Dovercourt NDP)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Sheppard, H. N. (Northumberland PC)

Substitution:

McLean, A. K. (Simcoe East PC) for Mr. Sheppard

Clerk pro tem: Callfas, D. G.

Staff:

Eichmanis, J., Researcher, Legislative Library

Witnesses:

From the Board of Funeral Services:

Crawford, R., Vice-Chairman

Lougheed, Jr., G. M., Chairman

Poole, M., Secretary-Treasurer

Steenson, D. B., Registrar

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, February 23, 1984

The committee met at 10:08 a.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
BOARD OF FUNERAL SERVICES

Mr. Chairman: Gentlemen, we have a quorum present. Perhaps we can get going with the morning's proceedings.

This morning we have in front of us the Board of Funeral Services. I see three names and four people, so perhaps your primary spokesman would identify himself or herself and then identify the other people for Hansard and for the members.

Mr. Lougheed: Mr. Chairman, my name is Gerry Lougheed, Jr. I am the chairman of the board and I come from Sudbury. To my right is our vice-chairman, Mr. Bob Crawford, who comes from Toronto; to his right is Mr. Don Steenson, registrar of the board; and to my far right is Mrs. Margaret Poole, from the Chatham area, the secretary-treasurer of our board.

Mr. Chairman: Do you have an opening statement, a prepared brief or an oral statement?

Mr. Lougheed: Perhaps the only oral statement is that we welcome the opportunity to discuss with you the facts that were presented to us. We hope to be as honest and complete with our answers as possible.

Mr. Breaugh: Mr. Chairman, there are a couple of things I think we would like to get on the record. We went through our staff report last week in a little briefing session, and I think we have identified a couple of areas where there appear to be some difficulties. I would like to get a bit of a response from you this morning.

According to the information we have, the basic beef with funeral services essentially is they are too expensive. I have read some of the information you have put out to try to explain to people what the costs are and what is involved in funeral services. I guess one of the basic problems in the Canadian experience is we do not talk much about funerals. We do not advertise in the way they do in the United States, for example, so I would guess for most people it is a relatively new and different experience at a rather awkward moment in their lives.

Perhaps you could run down for us the attempts you are making as an organization to try to keep the public reasonably well informed, and to try to keep your people who are in the business reasonably well informed as well, as to what is acceptable practice and what is not. We saw a couple of brochures. Do you do more than that?

Mr. Lougheed: We have brochures that are available to the public and to the profession. I might suggest our purpose is to regulate the act and to enforce the act as you see fit and make recommendations to the ministry. In attempting to do that, we are attempting to establish a better dialogue within the profession. I feel most people would identify the Ontario Funeral Service Association as the main lobby for the profession itself and the Memorial Societies of Ontario, which is headed at present by Mr. Eric Inch.

In the course of trying to be the evangelist of proper information, we are encouraging both groups to review such items as price advertising which I think Paul Gardner--I do not know if he is still here or not--is reviewing for the health disciplines. We are suggesting the need to be able to dialogue together to present things to the media and to be as open and honest as possible.

In this past year I have suggested an impetus to education. Perhaps this committee could make recommendations to the Minister of Education (Miss Stephenson) and the Ministry of Education. I think a sad area and one that is lacking in our province is there is no death education. So your adjectives and phrasing regarding vulnerability, the unfamiliar, etc., are very true because no time is spent to try to develop any mentality about what funeral expectations are and what the dynamics of a funeral are. We often get bogged down with the financial question to a point it obliterates all death education.

Mr. Breaugh: You appear to have developed a role which is somewhat different to that of many of the agencies that regulate things. For example, the committee has looked at a number of other regulatory agencies that see a pretty narrow responsibility. They are appointed to regulate a certain industry under one or more acts and they tend to see themselves clearly in that role. All they do is regulate an industry. They pick out people who break the law, they point out areas where the law is deficient and they make recommendations to various ministries on what pieces of legislation might be changed.

You appear to be, not an unusual combination but a combination of the industry attempting to--I do not want to say "clean up your act," but words to that effect--put a better face on the industry, make the public more aware of what the industry does and make the industry more aware of problems you have encountered in the form of complaints. Can you tell us how you arrived at that position?

Mr. Lougheed: I believe history will likely be the best teacher to where we sit today, Mr. Breaugh. I do not think we are a public relations arm of the industry or the profession, whichever term you prefer to use. I suggest that as issues are put on our doorstep we would be foolish not to respond to them. We would lose credibility within the memorial societies, within the profession and within the public and the government at large, so we have responded to issues to the best of our ability.

I think it is likely worthy for this committee to be aware that there was in excess of 60,000 deaths last year, and our board office received 15 complaints. That works out to a 0.025 per cent complaint ratio, so likely the majority of people in Ontario feel funeral services meet their needs with a decorum appropriate to their attitudes.

Mr. Breaugh: On the matter of the composition of the board, it strikes me there is at least a potential for some difficulty because a number of the members of the board are themselves funeral directors. We have gone through other agencies and argued the point many times. When you set up to regulate an industry or profession, there is an awkwardness about having that done by people who are involved in that profession, as the funeral directors would be. The more common practice these days is to try to soften that by having others represented, as members of the public or lay appointees or some terminology of that nature. It has been done with the law society and a number of other groups, I must say, in my experience, not very successfully.

We are still learning how we might go about that because we get the conflict of wanting to be self-governing but also the sense of not wanting it to be seen as a totally in-house review of problems within an industry or profession. Perhaps you could very quickly run down for us just how this relationship is working out in your particular context.

Mr. Loughheed: Perhaps this question and your former questions really address this whole question of credibility and the function of the board to the public.

I feel that historically we probably have a good relationship. It could have been improved, and in the last two years our board has taken measures to improve the relationship with the public and to show our credibility to groups, especially consumer groups, which questioned exactly as you are whether five directors on an eight-man board would dominate all decisions.

It is worthy to note that at present on the eight-person board we have one person representing the Memorial Societies of Ontario. We have two lay people and five funeral directors. Of the five funeral directors, the majority have relationships with their local memorial societies and with professional organizations. We might be suggesting that we do have good dialogue, and we are answerable on both sides of the coin. It would be very dangerous if the five funeral directors were very active in professional roles in voluntary associations and were in bed making decisions that would benefit the profession. Right now, we are relatively objective, and I think our track record indicates our objectivity.

Mr. Breaugh: One of the things that was a little confusing for me was this. As we went through the various ministries that might be considered responsible for funeral services, we ran into a bit of a quandary. Some of us are of the point of view that much of what you do really is under consumer legislation and has to do with seeing the public is properly served by an industry. Yet much of the regulatory process here falls under another ministry. Has the board ever made any recommendations about that?

Mr. Lougheed: Yes, we have made two presentations in the last three years I have sat on the board. In both presentations, we have suggested that staying within the Ministry of Health was appropriate, our arguments being about the whole question of the hygiene of funeral homes, morgues, morgue attendants, embalmers, funeral directors, anyone who is in contact with the dead human body and, of course, the families visiting that body if the casket would be open.

I would begin with the brief that was presented by the Clarke Institute to the Minister of Health, who at that time was Dennis Timbrell, suggesting that the mental health aspects of funeral services are immense and that bereavement certainly is a significant issue in the mental health of this province. . Therefore, it was very appropriate that our board, which is basically serving the bereaved population of this province, be involved under the umbrella of the Ministry of Health.

If you check with most doctors, psychiatrists and psychologists, in most major writings and submissions I think you will find they agree with that statement.

Mr. Breaugh: Another area I found a little odd, quite frankly, was this matter of prearranged funeral services. There I found the legislation to be unusual in a sense. I have tried to think of similar situations in other industries. The trend seems to be to try to identify a single fund where it is relatively simple to observe how much money is put in, how the money is taken out, when it is taken out, who puts it in, and so on. However, under this act, there is really a considerable amount of leeway. Have you given any thought to the concept that perhaps a central fund ought to be established for that purpose?

10:20 a.m.

Mr. Lougheed: I think the mentality of people who are prearranging funerals is they are often older people or people who are perhaps facing an illness. They have a tremendous question about security and want to know their money is in their community. They want to know where it is in their community and they want to know who is administering that fund. That is why our registrar does inspections of all funeral homes and under the act is responsible for inspecting the prearranged trust funds as well.

The fact that death is an unscheduled event in our lives, not a nine to five, Monday to Friday situation, could pose a bit of difficulty to the central fund. In Ontario today there is in excess of \$70 million in prearranged funeral plans held by funeral homes or the Funeral Society of Ontario. To put that in perspective, the price, which perhaps would answer Mr. Breaugh's initial question, under statistics Canada figures of two years ago, was \$1,693 for the average funeral in Ontario. One might suggest if you divide \$1,693 into an excess of \$70 million, you will find there are many hundreds, if not thousands, of people in Ontario who are prearranging funerals.

We have found it likely that centralization would create a bureaucracy and confusion and would make people afraid they would be lost in that \$70 million. Therefore, the relationship on the community level is very important.

However, to address the second part of your question or the implication of your question about what the board is doing to ensure those inspections, we have made a presentation to Dr. Elgie asking that he consider legislation requiring mandatory bonding for all licensed funeral service employees in Ontario. Last year we introduced new inspection procedures stating an annual financial statement had to be presented to our board office.

Mr. Breaugh: I think part of the problem here is that many of us are still left with the quaint notion that if I take my money to my bank, my money stays in my bank tonight, which is probably not true at all. For the most part, there are computers whirring and moneys being transferred to pieces of paper going over computer lines. A lot of it rolls in and out of downtown Toronto through the great computer rooms here. So there might be a bit of a perceptual problem in that many do adhere to the quaint old idea that when I drop into my Royal Bank branch at King and Wilson in Oshawa and I put \$20 in there, it stays at King and Wilson until I want my \$20.

For practical purposes, it seems to me that a centralized fund would not be difficult to establish. For the most part, that is probably where the money is going anyway. If it is going into a trust fund or a bank of some kind, it would not be a very difficult thing in modern technological terms to say there is a central fund, here is the money, you take it in North Bay and deposit it in your little account up there and, boom, it goes down to Toronto and stays in an account where is computerized, monitored and all of that so there is considerable assurance of all that. Computerized statements can be provided to people and all of what modern banking is about can kick into place. It seems to me there is a perceptual problem, but there is probably not a practical problem. I wonder if you have looked at that.

Mr. Loughheed: By the way, there is a voluntary association called the Funeral Society of Ontario that is basically a centralized trust company for funeral funds. Coming from the north and living in Sudbury, maybe my perception of Toronto is a little bit different than if I were a Torontonion, but I kind of like the idea, even if it is incorrect, that I am dealing in Sudbury.

I might also suggest that if you cancel your agreement with that funeral home, that funeral home is obliged to return that money tout de suite. In fact, really on that day if possible, that money and the interest accumulated should be returned to the client. I think the fact that many older people feel there is no jeopardy, that their money is not tied up, that their money can be returned at any time, that the majority of the interest--in fact, our experiences on the board has been that 100 per cent of the interest is returned--is likely valuable to the consumers of this province.

Those trust funds are not associated with the funeral home at all. In fact, if the funeral home is sold, those are not considered an asset. A wise committee member may say: "Yes, but that is goodwill and is between the buyer and the seller." But as far as the legal definition of those funds are concerned, the client still has access and accessibility, which is the important thing as far as the profession is concerned.

However, Mr. Breagh, I might suggest we would welcome a proposal that would show us how to officially run a centralized fund. I would wonder if under the present legislation we would be allowed to run that fund.

Mr. Breagh: Probably not.

Mr. Loughheed: If you could make the proposal, we certainly would look at it.

Mr. Breagh: It is not a widespread problem, apparently, but there do continue to be hearings held by your discipline committee around people who misuse trust funds. That is after the fact. If it is possible, technically feasible and desirable, we should attempt to put into place something that prevents someone from misusing a trust fund. You cannot stop crime by writing laws, but you can provide a system that would minimize to the extreme the opportunity for someone to misuse trust moneys. That would provide a reasonable guarantee to the people of Ontario that their money is held in trust and that there is more than just a complaint system available if something goes wrong.

Mr. Loughheed: If we could address Dr. Elgie's ministry for a minute, we have regulations we have been guaranteed will be in effect within 90 days asking for a more complete reporting mechanism to our board. As we analyse the problem of the two incidents the member for Oshawa (Mr. Breagh) is referring to--one in Kincardine in which someone absconded with \$53,000 and one in Belleville in which someone absconded with a little over \$70,000--in both situations the consumer was protected by voluntary donations and contributions from the profession, because we felt these were the rotten apples that constantly make the headlines for which the rest of us always seem to have to answer.

No client in either community lost anything in those transactions, except for the question of interest in Belleville, and I understand most of the clients are satisfied with the proposal. We could not envisage our act allowing a centralized fund. That is why we have gone with the bonding question. Every funeral director in Ontario would have to be bonded or would not be allowed to write prearranged funerals. In the event of an indiscretion, the bonding company would reimburse the clients in question.

Mr. Breagh: Could we go into the activities of the discipline committee? Is it a normal practice, after the discipline committee of the profession has dealt with a complaint, that it be referred to the Ontario Provincial Police for further charges? What happens there?

Mr. Loughheed: If it would be agreeable to you and the chairman, I will ask our registrar to answer. He is familiar with OPP procedures. I think it is quite the reverse of what you are suggesting.

Mr. Steenson: When I discover a shortage, it has to go through the complaints committee and then the discipline committee. In both cases, while I have been in that town, I have contacted the local police and I have laid the information and a charge has been made against the funeral director for theft.

Mr. Breaugh: There is a rather unusual process at work. You get a complaint and go and visit a local area and investigate the complaint. If you think there is something amiss, you lay an information at the local OPP office and it then proceeds.

Mr. Steenson: Yes. At the same time, I put it before the complaints committee, so it is a two-edged sword. The funeral director usually ends up before the discipline committee and loses his licence. He also ends up before a local judge and is usually sentenced to a jail term.

Mr. Breaugh: It is somewhat unusual that you are the agent who does that.

Mr. Steenson: In both cases, I have been the one who has discovered the shortage. According to the board lawyer, my obligation is to report a theft. That is why I have been the one who laid the information.

Mr. Breaugh: The report we have of the activities of the discipline committee is a little difficult to understand. There are some quaint terms used. Aside from the stealing of money, are there other activities done by funeral directors listed in this complaints committee report that are criminal charges or are they only professional misconduct charges?

Mr. Loughheed: They go hand in hand. The person is accused of professional misconduct if there is a criminal charge. The gentleman at Kirkland Lake who maintained in all the local papers that he was shooting his cat and shot his wife by mistake and has subsequently been sentenced for murder is on our docket to appear in front of the discipline committee. We cannot proceed because he is appealing the decision of the judge.

In that type of situation, criminal charges do get one in front of our discipline committee. You may have noticed one of our charges is directing a funeral while intoxicated with alcohol or drugs. If one were driving while drunk, I believe that would lead to criminal charges as well. The circumstances would dictate whether it would go hand in hand with criminal charges.

10:30 a.m.

Many of our profession who lose their licences outside of criminal charges find that quite devastating because they have no livelihood. Second, we have the power to fine, as you are likely aware, in the act as well.

Mr. Breaugh: We find that a number of regulatory agencies function from one extreme to the other; there is quite a bit of variance. In certain professions and industries where there is a regulatory body like yours at work, you can break the law like mad. As long as you do not embarrass the industry or profession, nothing is wrong.

The variance goes from a situation where you do something really wrong and the industry calls you in and says, "Please do not do that any more because this is embarrassing to us," to the other extreme, where there is almost a kangaroo court involved when someone thinks a lawyer or doctor or a funeral director should not act in that way. You are being threatened with a lot of sanctions, but you do not have a lot of legal rights either, because it is an internal committee which is hearing the complaint.

Where would you place yourselves in that scale?

Mr. Lougheed: The author of the act has safeguarded what you have suggested. If the complaints committee makes a resolution and you are not satisfied, you can go to the review board of Ontario, which is a totally separate entity to us; it has no relationship. Perhaps it will appear in front of your committee as well.

At the discipline level, if you disagree with the discipline committee's decision, you appeal to the Supreme Court of Ontario. There is not a, excuse the pun, dead end in this issue. You do have recourse either through the review board as a complaints committee decision or through the Supreme Court of Ontario. Both avenues have been pursued.

Mr. Breaugh: Would it be standard practice that someone appearing before the discipline committee would have legal counsel with him?

Mr. Lougheed: All the time.

Mr. Breaugh: In essence, you provide a court-like situation where a hearing is held and they have a right to counsel. Do counsel have the right to cross-examine and all that stuff?

Mr. Lougheed: I am not familiar with the legalities. I am not a lawyer. I have appeared before the Ontario Municipal Board where it was a similar format to that, except we have a three-man committee as opposed to only a chairman.

Mr. Breaugh: According to the complaints we have documented here, about 80 per cent of the complaints lodged with the board deal with excessive pricing. That is the last thing I want to talk to you about. It concurs with what I hear in my office.

I do not get a lot of complaints about funerals or funeral directors. I believe there is a good reason for that; it is at a

time when people do not want to complain. They have a lot of other problems that have come upon them suddenly. Even if they think they were charged an outrageous price for a funeral service, they are more concerned with losing their houses, how they will survive, the multitude of legal matters about wills, executors and all that stuff. It is an unlikely time for people to complain.

In the media and in my office, it is quite a common argument that a lot of unnecessary expenses are put on people at a time when they are vulnerable. What is the response of the industry to that kind of comment?

Mr. Loughheed: Put your 80 per cent figure in the perspective of our board. I mentioned the 15 complaints. Out of the 15, 11 were financially oriented. As a board we have taken on as one of our mandates this year to seek a better definition of the word "excessive." We have gone to the Ontario memorial societies and to the Ontario Funeral Services Association and asked them to give us a proposal or at least information or input on what they would view as excessive.

We approached the former Minister of Health, Mr. Grossman, and his aide, Mr. Ball, and asked them to give us some input on the word "excessive." Obviously, with Mr. Norton's health problems, we have not had the same access to Mr. Norton. We are concerned about the word "excessive," and because we feel we are credible as a board, we want everyone's input.

I can give you a guideline now. As you sit in that chair and, the good Lord willing, you are hit by lightning, you will get a lump sum death benefit of \$2,080 from the Canada pension plan, plus a monthly pension for your wife, and also for your children as long they attend school. Is it fair to suggest that a funeral that would cost \$2,080 is a fair funeral? I do not think so.

If I sit down with my memorial society friends and they have a funeral available for \$400, they feel that is a fair funeral. Depending on people's expectations, I think the word "excessive" has to be appropriate. Therefore, if I was having a very simple funeral and was being charged \$1,000, that may be far more excessive than if I was having a traditional funeral and being charged \$2,500. This word "excessive" is one that is of great concern to this board.

Furthermore, a word you have not asked about in your question is "different." In the act, it suggests that every funeral home in Ontario must have eight different caskets. Does that mean eight different wooden caskets? Does that mean eight different cloth caskets? Does that mean eight different steel caskets? Common sense in this room would say you would have a variance of all of those, but with the syndication of funeral homes happening in some parts of Ontario, should we not be seeking input before we have a crisis on that word as well?

Both those words are of great concern to this board.

Mr. Breaugh: Finally, you mentioned the memorial societies in your reply. I seem to recall that the relationship between the board and the memorial societies has not always been a rosy one. I seem to recall some local funeral directors bending my ear severely about memorial societies, whether they should sit on this board, whether that was fair, and mentioning a great many other concerns that they had. In your next response, could you describe that relationship?

Mr. Lougheed: That relationship is definitely improving. In June, L. E. Elder, who is a noted Toronto Memorial Society person, and Eric Inch, the president, met with our board and their evaluation of our meeting was very positive and very progressive. In fact, they have submitted a letter suggesting they enjoyed meeting with our board and found the new mentality most improved.

I cannot comment on my predecessors, but as we do not have dinosaurs due to the ice age, perhaps there are changing mentalities as far as this conflict and confrontation concept that has plagued memorial societies and funeral homes. Mr. Crawford here has the longest relationship with memorial societies in Ontario. Last year the Toronto Memorial Society made a presentation to him for 25 years of service to their members. As I mentioned in an earlier answer, the majority of the funeral directors on our board are reciprocating contractual funeral homes with the local memorial societies.

In your research paper you refer to the problem in Thunder Bay. I might suggest to you that of all memorial societies, you could perhaps point a finger there and say, "Mr. Lougheed, that perhaps shows a breakdown." The Thunder Bay situation needs improvement. In December I flew up to Thunder Bay and met with the memorial societies and the funeral directors. Last week I received a letter that suggested the memorial societies and funeral directors have now met on two occasions, so I might suggest to you that the fortress mentality is being broken down and we hope we can get even better dialogue in the future.

Mr. J. M. Johnson: Mr. Chairman, I have a question relating to a welfare recipient. Last summer a single mother's 10-year-old son was killed in a car accident and she ended up with a funeral costing \$1,800. Welfare would pay only \$800. It is my understanding that if you exceed \$800 they will not even pay that.

Mr. Lougheed: I am totally sympathetic to the question. I do not know if our board has any mandate to comment on that, but perhaps on a personal note I can suggest that my experience has been that the local social services boards do have that regulation in that they will allow only a certain limit. To me, they make a terrible regulation that says you have to confer with them before you even make the funeral arrangements.

Again, going back to some adjectives Mr. Breaugh was using, they are putting an awful lot of pressure on the family to be very much aware of Ministry of Community and Social Services regulations, which most people are not aware of.

Mr. J. M. Johnson: That is very unfortunate. Anyone who suffers a tragedy like this is not going to be thinking logically even if he or she did know. Is there any way funeral directors can make individuals aware of this?

Mr. Lougheed: Again, I feel this is beyond the mandate of this board since we do not have any legislation that requires us to do that. To answer your question, I might comment that the norm in the province is yes, funeral directors usually try to inform the family. In fact, going beyond just the social services, usually a funeral director will make contact with the Canada pension plan, the Department of Veterans Affairs, the Workers' Compensation Board or any other agency. Because he is not in a bereaved frame of mind, he can make the contact. As you are all likely aware, those agencies will not deal directly with the funeral director, so their directions and communications will go to the next of kin.

10:40 a.m.

Mr. J. M. Johnson: One last question on this topic. In the event this should happen again, whom should I contact to be able to help sort things out on behalf of constituents?

Mr. Lougheed: I had a client come into my office six months ago who said her counsellor said, "Just go ahead and make arrangements for your daughter's funeral. We will get around to you afterwards." I raised bloody hell with our social services administrator and suggested they had encouraged and implied they would assist this family. Ultimately, we received a decision in which the family received full reimbursement because of the carelessness of their counsellor.

Mr. J. M. Johnson: Mr. Chairman, I do feel this is something the committee should take up with the Ministry of Community and Social Services. It does happen that if you exceed \$800 they will not even--for example, in this case I think it was a bill for \$1,800; I think the funeral director would have been agreeable under the circumstances to accept \$800, but the county would not even pay that. We should maybe take a look at it.

Mr. Epp: The county would not even pay the \$800?

Mr. J. M. Johnson: No. They say if you exceed \$800, they wash their hands of it. In fact, you have to get permission for \$800 before they will even give that.

Mr. Epp: I find it difficult that if you exceed the \$800, although the funeral director is willing to accept \$800, they will not even pay the \$800, if that is their maximum.

Mr. Lougheed: They do not view it as a grant. Unlike the other agencies I mentioned to you that view their funds as a grant, this particular agency views its moneys as a whole payment. That is where you run into this discrepancy.

Mr. J. M. Johnson: Let us have our researcher check that out because it has happened twice in my area.

Mr. Epp: I am not arguing with you, I am just curious that they would have that kind of attitude.

Mr. J. M. Johnson: It is my understanding embalming is not mandatory in the province.

Mr. Lougheed: Except for shipment out of the province of Ontario.

Mr. J. M. Johnson: What percentage of burials would take place without embalming?

Mr. Lougheed: Again, I cannot comment since we have not done a survey on that, Mr. Johnson. I might suggest that anyone of the Jewish faith and many religious faiths automatically refuse embalming. It is totally not appropriate to them for religious reasons.

There are also a number of consumer groups involved as far as this matter is concerned. We have addressed memorial societies several times on this last series of questions. Their memberships often do not feel embalming is appropriate. So I guess we are really talking about the rest of the population, and I believe it is likely the majority of that segment does have have embalming.

Mr. J. M. Johnson: In today's society many people are donating organs--indeed, their bodies--to science and universities, etc. What happens in a case like that? What type of procedure do you follow?

Mr. Lougheed: Organ donation does not have any implication for this board. Again, to clarify that point, it really does not interfere with the wishes of the family or others with respect to the funeral. For example, I am the past chairman of the eye bank for northern Ontario. Many people have donated eyes, yet they have had what I would consider a traditional funeral. The view is that a kidney transplant, for example, will not interfere with a viewing or a visitation or a mass at a church or a funeral service, whatever.

With regard to the body donation, which was the second part of your comment, I think you would find that would end up with a memorial service. There would be no casket or body present, but a memorial service would be conducted for the family. I do not really think you would need a funeral director for that. It could be arranged via your clergyman.

Mr. J. M. Johnson: Maybe this is not a question for your board either, but many people have expressed concerns about the involvement of a few extremely powerful American companies in taking over some funeral homes in Ontario. Is this something you wish to comment on?

Mr. Lougheed: I believe your information is incorrect as far as the word "American" is concerned. I believe there is a concern in Ontario about a syndicate taking over a number of funeral homes. In fact, in many of the ridings of members who sit in this room, one particular chain now owns 16 funeral homes.

There is a question of this becoming a monopoly. I might suggest to you that all of us in funeral service are concerned about this issue, but as long as these companies work within the framework of legal systems and the jurisdiction of the act, which says certain conditions must be met, then I think we would basically be embarking on a witchhunt, which I think would be very unfair.

Mr. J. M. Johnson: One last question. Are metal caskets replacing wooden ones?

Mr. Loughheed: You are asking a chap from Sudbury, and the answer for that area is no, but I might pass this along to Bob. Do you find in the Toronto experience there are more metal caskets than wooden caskets?

Mr. Crawford: No. There are more wooden caskets.

Mr. J. M. Johnson: I have a concern about that because I have a casket company in my riding.

Mr. Steenson: I was just out this week on inspections covering five funeral homes close to your area. They all made the comment that wooden caskets were still in the majority.

Mr. Lupusella: Mr. Chairman, I am sorry for being late. I had an appearance before the Workers' Compensation Board at nine o'clock.

The question I was planning to raise is based on the additional information provided to us by our research, which indicates eight per cent of the complaints lodged with the board deal with charges of excessive pricing. I am not sure if some other member raised this issue, but I would like to bring to your attention the general concern of ethnic people who are Roman Catholic and are spending a lot of money on funeral services. I think there are excessive abuses by funeral homes of a lot of ethnic people who are trapped by the ethic of religion and veneration almost towards the body of a person who has passed away.

I am not particularly sure what the board is doing to control this situation. The latest complaint was launched through my office when an injured worker came to complain that he paid almost \$8,000 for a funeral service. Of course, I do not know the details of the service, but what I am sure about is the person was not transported to Italy, for example, but was buried here in Toronto. Seeing the figures provided by our research, it appears the cost of embalming can range from \$150 to \$250 depending on the region. By comparison, the total cost of a simple traditional funeral may range from \$950 to \$1,250 and a simple casket would cost approximately \$250. In talking about \$8,000 for a funeral service, I do not know if they placed gold on this casket.

The concern is widespread among ethnic people. I want to pinpoint in particular Portuguese, Italian and even other ethnic people who have deep sentiments towards religion and the person who passed away.

I do not know what the board is doing. We have complaints of funeral establishments charged with price fixing. I have heard horrible stories in the past that even the casket was removed during the night from a cemetery here in Toronto. I do not know how true these stories are or whether you get this type of complaint, but items on this matter appeared in the daily newspaper and on Channel 47 news, which is an Italian program, a few years ago.

I hope the board will be able to give me some answers in relation to the high price which these ethnic people are paying when there is a funeral service involved.

Mr. Loughheed: Mr. Lupusella, I might suggest your colleague beside you has raised many of those issues prior to your arrival. Again, for your benefit, because I think it perhaps puts your figure into perspective for the rest of the committee, the 80 per cent relates, in our terms, to 15 complaints being made to the board office last year, of which 11 were financially oriented; that is in numbers rather than percentages.

I might suggest that this board cannot make any comment about religion. I think that is perhaps for another committee and another ministry. I am not even sure where you would address that concern about religion and religious pressures, but I know our board has no mandate to make a comment in regard to that.

As chairman of the board and living in Sudbury, where we have a very large ethnic population as you are aware--in fact Sudbury has often been singled out as perhaps one of the more cosmopolitan areas in Ontario or in Canada--we have found that most ethnic groups have good leadership and representation. I can honestly tell this committee that I have never seen an \$8,000 funeral. I can even repudiate your numbers for your low-priced funerals. A complete funeral in my funeral home, with a night of visiting, newspaper notices, everything complete, with a grey-covered cloth casket, is \$787. Even your own figure of \$950, I feel would be high for my particular area.

10:50 a.m.

As far as the high cost of dying goes, I suggested to Mr. Breagh that often this is sensationalized because it is the easiest topic we can come to grips with. I do not believe any injured worker should pay \$8,000 and, if he did, as a member, I would strongly suggest you should contact our registrar and say: "This is ridiculous. We want a complaint and an investigation made."

Mr. Lupusella: He had to raise money through MPPs because he could not afford it. He paid the amount. He borrowed the money and said, "Now I am faced with--"

Mr. Loughheed: Did you or any of the MPPs who donated to it contact the registrar's office and lodge a complaint, or rather donate the money to a funeral director? I would really question the value of an \$8,000 funeral. I find that unbelievable.

Mr. Lupusella: It is unbelievable but it is true.

Mr. Loughheed: I believe you, but I am suggesting in my personal experience I cannot understand it.

Mr. Lupusella: The other aspect of the situation is that you have to understand the ethnic mentality. A lot of people do not want to launch appeals about the cost they are paying when, for example, the wife or husband dies. They are really reluctant.

Mr. Loughheed: When I graduated out of grade 13, I played on a varsity basketball team. Fragomeni, Dolcetti, Colussi, Signoretti and Loughheed starred in the lineup, so I am very familiar with what you are suggesting to us today. What I am also suggesting to you--

Interjection.

Mr. Loughheed: That is right.

I might suggest to you I feel a strong commitment to the ethnic community to make sure it gets all the information.

Mr. Johnson's question, which I am sure you heard, was about welfare. Have you ever analysed how the ethnic community is dealt with in the Canada pension plan, how it is dealt with with only English and French being spoken in many communities, and they are seeking community leadership to help them with these things? I agree not only funeral services--my in-laws are Lithuanian. They struggled when they had to retire from Canadian Pacific last year and got limited sympathy from that major corporation.

You have likely identified a dynamic that is not only appropriate to funeral services, but anything else you are looking at on this committee.

Mr. Lupusella: I do not have any other questions. I am providing the realities in which we are living and if exploitation is taking place in this field, I guess it is the board's and the registrar's duty to investigate, not just the particular complaints but once in a while, maybe once a year, to go to the funeral homes and try to get into their books and find out if they can detect something which it was improper to do.

Mr. Loughheed: That is in the act. This man who is third to my right is the registrar who makes annual inspections of all funeral establishments in Ontario. By law we have access to all records, books and trust accounts of all funeral homes. That is how we uncovered--in fact, before your arrival we talked about Kincardine and Belleville. That is how we found the discrepancies in those communities.

You also raised the issue of the bodies that had to be exhumed and the question of caskets being removed. Perhaps our registrar can give you the facts on that situation which our board is familiar with.

Mr. Steenson: I was quite concerned about that. For over three months I spent most of my time in Toronto cemeteries along with police officers. I was present for every one of those exhumations and there was no truth in it at all.

It was a rumour that started in that particular ethnic community and in every one of those exhumations the casket was still there. We could not find out. We tried to trace it down through the police, through the various Italian parishes, through the priests. I can tell the committee that every Monday morning there would be probably 15 or 20 telephone calls from people who had heard it at mass yesterday and wanted to know what was going on. The complaints dwindled as the week progressed until by Thursday and Friday we did not hear anything. Then next Monday it was the same thing. It seemed to originate after mass. The rumour started; it was a vicious rumour and there was no truth to it at all.

Mr. Lupusella: What about excessive pricing if there is this yearly inspection? Did you notice the skyrocketing of prices, or do funeral homes perhaps have their own way not to show the price that is really paid by the person who uses the service?

Mr. Loughheed: Mr. Steenson goes into each selection room just as you would go into them. He sees all the caskets and he writes down what he sees. He does not care what the funeral director says. He writes down what he sees on the inspection report. At the meetings of our board, these inspection reports are presented. Two years ago now, after hearing the inspection reports, going back to your colleague's question of excessive cost, the board members as individuals felt some funeral homes did have the high prices you are talking about.

We instituted a policy where our board sends a letter to those funeral homes stating: "We feel you are high-priced compared to other norms in Ontario. Would you consider your merchandise or your costing, or whatever the case may be, and get back to this board if you can make adjustments?" To this time, we have had 100 per cent of funeral directors writing back saying they have brought a more reasonable casket into their selection or they have reduced their costs through some means. So we are responding to that concern.

The trouble is, if you challenge me on that and say, "Mr. Loughheed, you are totally wrong. In my riding of Dovercourt, I am entitled to charge \$8,000," and I say, "No, Mr. Lupusella, that is excessive," the defendant then says: "Excessive? Where did you get your parameters on excessive? Why do you not have definitions so that we can see what excessive means? Then I will decide if \$8,000 is excessive." This is the quandary our board finds itself in. As I mentioned to the rest of the committee members before your arrival, we now have a mandate seeking input to define the word "excessive."

Mr. Lupusella: The reality of life is this man did not come to see me to complain about the excessive price. He would even have paid \$10,000 for his wife. He came to see if I was able to raise some funds to pay the money he borrowed from other people to pay for the funeral service.

Mr. Loughheed: Did you find it reasonable, though, when he said \$8,000? You are an intelligent man.

Mr. Lupusella: Based on his ethnic background and how religion works on his people, I understand. I do not say his behaviour is right, but I can justify it. If it was somebody else, me for example, I would have gone to the registrar and launched a complaint against the funeral home.

Based on the culture of these people who came to Canada maybe 20 years ago, their minds and their religion were blocked from the time they left their own country. Their behaviour is justified to them and they do not go around launching complaints. As I stated, they would be pleased to pay \$10,000 as the last respect they want to show to someone very close to them.

If we have a board, I think it is the board's duty to investigate and try to trace the problems that are there. Although the board will not justify the people's behaviour, we cannot justify the behaviour of certain funeral homes that are taking advantage of this situation.

Mr. Loughheed: Just out of interest, Mr. Lupusella, and I do not want to embarrass you since you people are asking us the questions, do you have the board office address and phone number in your office?

Mr. Lupusella: Yes.

Mr. Loughheed: Would you consider contacting us when such a concern comes to your attention?

Mr. Lupusella: I will contact the person and if he is willing to initiate an investigation on the amount, I will be pleased to give you his name and the name of the funeral home. Again, this is just an incident, but I know thousands of ethnic people never approach me to express their concern, not about the price, but about not having the money to pay for the service. That is how I interpret it, that there was an overpricing on the service, not that people are coming to complain about the prices.

Mr. Loughheed: I understand your point.

11 a.m.

Mr. Chairman: May I follow on about the price? Over the last 20 years, I have seen an average of 50 funeral accounts a year. We have in front of us these prices from the researcher. The total cost of a simple traditional funeral may range from \$950 to \$1,250. In the last five years, I do not believe I have seen a funeral account under \$2,000, and I probably have not seen one as low as \$1,250 for 10 or 12 years. Is there a great variance in different areas of the country? Are there traditions of semi-rural, wealthy, southern Ontario that caskets are different, that traditional funerals are different? I might say I see \$2,300 or \$2,500 as the norm. Can you explain the discrepancy of \$1,000 as compared with what I see of \$2,000 to \$3,000?

Mr. Loughheed: I might again suggest to you, as you are aware, we will definitely answer your question, but we are not allowed to price-fix on our board. It would be nice if we could go out and say, "Everybody in Ontario will have a \$1,000, \$1,500, \$2,000 funeral." We cannot do that. The act says a minimum of eight different caskets. That goes back to the word "different." I am suggesting the constituents who are presenting you with their accounts have selected caskets or services from that eight or more that were not in the minimum range.

However, if one looks at the office of the public trustee, which is an extension of the government, it allows a death benefit of \$950 plus disposition.

Mr. Johnson asked about social services. In our community we receive \$787 for social services. I mentioned to you the Canada pension death benefit of \$2,080. The Department of Veterans Affairs will give a \$1,000-death benefit. I suggest to you a fair grant for funeral services, which has been evaluated by the government agencies, seems to be in that other range.

Your constituents perhaps are including internment charges there, if they bought cemetery property or a paid grave. Perhaps they are suggesting clergy offerings, even flower accounts, outerliners and things that are not directly involved with the funeral home.

Mr. Chairman: This would be what was on the funeral director's account.

Mr. Loughheed: Mr. Chairman, I might also go back to the provincial average, and I think you have our brochure. I think the researcher picked it up. It is at \$1,693, which again goes back a couple years. If you add inflation, you are around the vicinity of the \$2,000 you mentioned you are seeing on accounts. Perhaps now you would ask the question, what is the cost of operation? What is the cost of that merchandise? As everything else in our society is going up, perhaps that warrants the increased cost.

It is interesting to note that our federal member in Sudbury, Doug Frith, and his pension commission have suggested they will never take the inflationary clause out of the benefits for survivors because inflation is coming each year and the benefits are necessary to the survivors.

Mr. Chairman: Fine. Thank you.

Mr. Watson: In the matter of licensing, do you license people? Do you license places? What licences do you issue?

Mr. Loughheed: There are two licences as such. I will ask the registrar to clarify the numbers for you, Mr. Watson. There is the funeral director's licence. He has to be a graduate of grade 12 in Ontario. He has to attend a Humber College two-year program. He has to serve an apprenticeship and to pass a four-part board examination to receive his funeral director's licence.

The funeral service establishments are each licensed as well; I believe the number is approximately 532, and we have several hundreds of licensees.

Don, do you want to discuss that and the continuing education maybe, too.

Mr. Steenson: There are two types of licences. There is a personal licence and what I call a "bricks and mortar" licence. We license the building and we license the person. In Ontario this year we have 520 funeral homes and about 1,325 licensed funeral directors who are active, working in funeral homes. We have another 675 who are inactive. That is a big word "inactive," but they are doing various things outside of funeral services.

Mr. Watson: How does one lose one's licence or have a licence removed without a full hearing? You mentioned that when it come right down to it, there was a figure of 18 complaints or something. You obviously have a lot more administrative things back and forth. Licences are removed by mutual agreement, I suppose, or without being contested or that kind of thing?

Mr. Steenson: No, Mr. Watson. The only way I could lose my licence, other than through the complaints committee or the discipline committee, would be for failure to pay my annual fee. We write off--if that is a good word--approximately 30 people each year who for various reasons have retired from funeral service or have kept their licence up and been inactive for 15 or 20 years. In fact, I got a letter in yesterday from a chap who, after about 35 years of being licensed and about five years of being retired, just said, "I am sorry, I do not think I will ever need it again, so it is okay if you write me off."

Does that answer your question?

Mr. Watson: Yes. Are you the only inspector who goes out across the province? In terms of your bricks and mortar, what would be reasons to remove a licence?

Mr. Steenson: First of all, in granting the licence, the act--

Mr. Watson: Let us go back and start there. They would have to be granted a licence before they started, but we want to look at it further. Suppose somebody says, "I am qualified and I want to start a new business," what are the qualifications then?

Mr. Steenson: The first thing they have to do is submit architectural drawings of their proposed funeral home, whether it is new or renovated, to the board. Accompanying that must be a letter from the municipality stating it does not contravene any local or municipal zoning regulations and a letter from the health unit saying they will inspect the place as far as the sanitary aspects of the operating room, the washrooms and so on are concerned.

Once that is given, the board gives them permission to go ahead and build. A final inspection is made before they open, at which time I look at all of the facilities and see, as it is worded in the act, if it is adequate to serve that particular community. In other words, what might be adequate in Wawa would not be adequate in Thunder Bay.

You more or less have to go by the act and give them that licence if it appears adequate to serve the public and, as the chairman has said, they have a minimum of eight different caskets, their operating room has passed the inspection of the local health unit and they have sufficient vehicles there to serve the public. Then they are granted a licence.

The premises' licence could be revoked, I think the act says, if the conduct or the past conduct of any of the new directors of the company or the applicant is such that we might have problems with it. I can only threaten to remove it. He has the right to appeal to the Funeral Services Review Board. I give him due notice of various reasons, and then he goes to the review board.

Mr. Watson: Do you set the standards for licensing? In other words, do you accept the course at Humber as it is or do you make suggestions for it? What are your connections with the qualifications for licensing?

Mr. Loughheed: As your research report notes, there are three committees. One of our standing committees is a licensing committee. The licensing committee has representation on the advisory board to Humber College. We also have direct communications with Humber College and the idea is that, for example, usually at least once, if not twice, a year, as chairman I will go out and talk to the students as well. In fact, for a number of years Don has led the discussion on the legalities of the Funeral Services Act.

So one might suggest there is a very good working relationship with the board and Humber College. However, I would caution the committee and point out that it is at arm's length. In other words, they train the students according to Humber College qualifications and standards and requirements, for example, electives and English programs, etc., which this board would not have any input on, but we administer the final examinations.

It is interesting to note that 65 students attempted the examination last year and four failed. It speaks well of the training of Humber that an independent group can establish a series of examinations and 61 out of 65 can pass them. The general comment and evaluation of our examinations is that they are relatively difficult.

Mr. Watson: Is there any renewal process? Once a person gets a licence, does he keep that for life or does he have to rewrite examinations or what happens?

Mr. Lougheed: They do not have to rewrite any examinations, but by law every five years they must attend a continuing education program, which goes for two days in Toronto. Every five years we run a program in Thunder Bay for our friends in northwestern Toronto so they do not have to make the pilgrimage to Toronto. The situation is they enjoy that.

Mr. Epp: I did not know Toronto was a shrine.

11:10 a.m.

Mr. Lougheed: The Toronto continuing education course is law. You can miss it for one year for reasons of illness or reasons of emergency in your family, but you must attend it in the sixth year or your licence is reviewed by the licensing committee.

Mr. Watson: Is that done at Humber College?

Mr. Lougheed: No, that is done at the Westbury Hotel. It has nothing to do with Humber College. It is administered by the board.

Mr. Watson: When you say it is administered by the board, do you personally do the instructing? Who does the instructing?

Mr. Lougheed: I think if you look under your researchers you will see the topics we have covered in bygone sessions. Public health: We had a presentation on acquired immune deficiency syndrome last year regarding the health implications for people who were handling dead bodies that might have been in contact with AIDS. We have had bereavement, with Dr. Earl Grollman coming up from Harvard. He is on the crisis intervention team for Harvard and he made presentations on the role of children in grief.

We basically discuss any financial, practical, emotional, psychological or spiritual matters for bereaved people who might be involved with funerals. You can pick any category and it might be in those two days.

Mr. Watson: One of the things we do in this committee is suggest changes in legislation. Does the board have any specific suggestions of changes that should be made in legislation or are you satisfied with the present legislation in terms of the mandate you see here?

Mr. Lougheed: I think it is a good act. I think some people perhaps came today with a negative concept. I hope with these questions and answers we have been able to show that we try to function in an appropriate and proper fashion.

However, I think there are some housekeeping changes that would certainly be of benefit. If any of you are involved with Dr. Elgie in his ministry, you could suggest the bonding issue that Mr. Breagh raised a few minutes ago. We feel strongly that legislation should be enacted as soon as possible.

As to the word "excessive," if any of you have any input as far as a better regulation on excessive is concerned, we would certainly welcome that.

Paul Gardner is looking at the price advertising issue. We feel price advertising likely has merit, but there have to be guidelines on price advertising or it would be self-defeating.

There is housekeeping legislation which is either in committee or before the ministries right now that we would like to see changed. On the other side of the coin, if any of you have concerns, as we said to Mr. Lupusella, we would welcome hearing them in our office as well.

Mr. Watson: I would be interested in knowing why you picked the bonding. I take it the board is suggesting the bonding proceed.

Mr. Loughheed: It was an all-party agreement, Mr. Watson. In other words, the Memorial Societies of Ontario feel it is a good concept, the Ontario Funeral Service Association believes it is a good concept and we, as a board, feel it would certainly tighten up situations such as Belleville or Kincardine that perhaps could not happen again if the individuals had to be bonded.

There is a bonding issue in a voluntary association right now that only covers half a million dollars. There are large funeral homes in Toronto that have far in excess of half a million dollars, so even the voluntary association's bonding concept is not very good.

Mr. Watson: Why did you pick bonding? I have a reason for asking that. We have had little problems in the agricultural community with certain people selling grain that did not belong to them and going bankrupt, or selling fruits and vegetables and usually being involved in bankruptcy.

Bonding is definitely an option. Every elevator would be bonded to the extent of any grain it would have in it. That answer, although it would work, is expensive and the expense would in some way go back through to the producers. The elevator operator may say he has to pay it, but on the other hand, he is going to have to get the money, and the money is going to come from either the marketplace at one end or by paying less to the farmers.

Have you looked at options other than bonding? With the processing crops, it looks as if the answer with the grain crops is going to be a system whereby a separate fund is going to be established, not a voluntary fund but a mandatory fund. It is like a bond but it is going to be much cheaper for everybody than a bond.

Mr. Loughheed: Mr. Watson, you are quite correct. Our first proposal on this board to our board members and from our legislative committee was the idea of the compensation fund. We figured out a complicated formula that amounted to about a half a cent on the dollar, which was prearranged or pretrusted, to be

given to a compensation fund. But when we started dealing with the administration of that fund, it became very difficult.

For example, first, do you let the fund grow forever? We have had only two instances in the last several decades that indicate a shortage of funds. If we do tighten up the regulations, if we do make it an issue and we are educators on the issue, should we start collecting money we will never use? We will just have huge sums of money sitting around that would not be put to any particular use.

The second thing is, let us say you are a victim of a funeral director who has taken his trust funds, how do you receive your money? Do you simply come to the board office and say: "I gave the guy \$2,000. I want \$2,000 and bank interest." Do we say, "No, we want \$2,000 and government interest"? Or do we say, "No, we just want the principal"? The man has not been proved guilty yet, so do we give him the money or say he has to wait for the hearing? When the hearing is held, we may find out he has liquidated his assets and there is enough to cover all the funds anyway, so we do not need the compensation fund.

As we began wrestling with this issue, we found we were creating ourselves a monster, as far as we could see. Perhaps funeral directors are not noted for their intellect or ability to respond to issues at times. Sometimes we are accused of being the dinosaurs I talked about earlier. Maybe we were just afraid of that issue and maybe we should reconsider it.

In the bonding issue, the professional association has done experimental bonding and has come up with \$60 a year for \$1 million worth of trust funds. We do not feel \$60 a year is an enormous amount for the cost of doing business. A death notice in the Globe and Mail, about which Mr. Crawford and I were talking beforehand, would likely be in excess of \$60. That is just to run a death notice in the Globe and Mail today.

I might go back to our chairman's question. We have some people with whom we do business who have some pretty high rates too, but we found bonding was likely a cheap and an efficient way to administer this problem.

Mr. Watson: If those are the kinds of figures you are dealing with, maybe it is not an issue. It occurred to me that one plan representing your 500-odd funeral homes could probably be run a lot more economically, as far as the province went, if there was one fund, than if you said to the 500-odd homes, "Thou shalt be bonded," and they went out and did that. It might be good for the bonding business, but the total amount of protection money paid probably would be much higher. If it is in that range, then I suppose it is--

Mr. Loughheed: You have brought up an interesting point, Mr. Watson. One could say, "Fine. If the association does group bonding, it will be far more reasonable than individual bonding." But an unscrupulous individual might find it difficult to join the association. So he may be out in left field with a very high

bonding fee, and he may deserve a very high bonding fee. Historically, our profession does not have a lot of problems with bonding, so it should not be an enormous cost. But if you are a rotten apple, maybe you cannot get bonded and maybe you will not be able to take prearranged funeral trusts.

Mr. Rotenberg: Do you think the bonding company will have a control your association would not have?

Mr. Loughheed: The association would not have it and this board does not have it.

Mr. Watson: In the matter of funeral pricing, what enforcement do you have when it comes to disclosure of pricing? I am thinking of overall price versus individual service pricing.

Mr. Loughheed: Part of the act says, "failure to maintain the standard of funeral practice in Ontario." It would be appropriate to say to you, Mr. Watson, that the standard of funeral practice in Ontario is that financial matters should be disclosed. If you look at memorial society brochures, seminars held in community colleges and high schools and talks given to civil groups, you will find finances are disclosed quite openly.

11:20 a.m.

I am not ashamed to tell you that I feel the \$787 fee I charge in Sudbury is quite justified and I can easily explain it. In fact, it contradicts, as I said, a bit of information you gentlemen have today. There is no forced public disclosure. In other words, there is no part of our act that says you have to send a price list to a consumer. However, historically, the marketplace has eliminated those people who will not co-operate with the public to provide those figures. I go back to the fact that pricing is likely a bogymen. Once people are aware of their choices, they are able to make a better decisions.

Mr. Epp: I want to ask a question or two of Mr. Steenson. You do your inspection of all the funeral homes in the province?

Mr. Steenson: Yes.

Mr. Epp: And you do one of those inspections every year for each one?

Mr. Steenson: No. Depending on how much work there is in the office, it averages approximately once in 18 to 24 months. These are unannounced inspections, by the way. No one knows when I am going in. If there is a particular problem--and I was mentioning to Mrs. Poole coming over here that in a certain year, 1967 I think, I spent most of the year in a particular area of Ontario, because there were problems and I kept a very close eye on them.

Mr. Epp: It is only once every one to two years that you really get around.

Mr. Steenson: Yes.

Mr. Epp: I was wondering how you were going to get around and inspect 520 homes in one year. What do you inspect during that time?

Mr. Steenson: Literally everything from the front door to the back door. I look for facilities and, as I mentioned to Mr. Watson, whether they are adequate and clean and whether they have the number of caskets there. As Mr. Loughheed told you, I bring all of these reports back to each board meeting, which is a report on the funeral home, its address, the name of the manager in charge, if he is not the owner, the staff members who work there, whether the trust funds are okay, if the operating room is sanitary, the casket selection room, including the number of caskets available, and the prices which are available.

The board has asked me to bring back the lowest to the highest complete funeral. They have in the last couple of months asked me to come back with the first wood casket price and the second wood casket price. I look for that. Then I look at the maintenance of the building and at the motor equipment. Basically, that is it.

Mr. Epp: How long does that inspection take you on average?

Mr. Steenson: It varies. When I started doing this many years ago, the chairman of the board at that time said he did not want me to go in on these inspections as a policeman, if you can understand that. He said, "Go in and do a thorough inspection, but if the funeral director wants to talk to you and ask you questions, go ahead." Many of them do, They will say, "How do my prices compare with those around the province?" Then I sit down and discuss these things without divulging where my figures come from. The inspection can last anywhere from an hour to sometimes three hours.

Mr. Epp: When you do these inspections, do you write them out onsite and give a copy to the local director, or do you not give him a copy?

Mr. Steenson: No.

Mr. Epp: Do you discuss it with him, or what happens?

Mr. Steenson: It is a prepared form and a confidential report to the board. But the funeral director tells me everything I ask him and he sees me record it. There is nothing put down there that--in fact, I am not at liberty to say, "You had better clean up your act," or "Your prices are too high." I say, "I will bring this report back to the board." As the chairman mentioned, the board looks at it and says, "You had better write to this particular man and point out these things to him," and we get a very positive report. As Mr. Loughheed said, funeral directors are very anxious to know how they stack up against the other establishments.

Mr. Epp: What you are saying is the board is looking at all these reports. Do they really look at all those reports?

Mr. Steenson: Yes, they do, sir.

Mr. Lougheed: We read each one of them. There is the issue of credibility. If I said I had seen them and I had not seen any of them, you would say, "What is happening in my area?" and I really would not know. We are able to tell you where renovations are taking place.

For example, in your own area, you have two funeral homes that have had extensive renovations. One of your larger funeral homes is planning to make a whole facility over a city block. As you can see, I am familiar with this.

Mr. Epp: Maybe you are thinking of buying it.

Mr. Lougheed: Absolutely not. We have a simple life in the north.

Mr. Breaugh: Especially in Sudbury, your area.

Mr. Lougheed: Yes, the fun capital of Canada.

Mr. Epp: Getting back to the prices, with respect to the case Mr. Lupusella cited, would you take it upon yourself, Mr. Steenson, to find out who that person is, check it out and find out for this committee whether that is legitimate, whether the \$8,000 was spent and how it was spent?

We can talk a lot here, but unless someone checks it out, we will not know. I am not doubting anyone's comments here, okay? Sometimes there are wrong impressions and so forth about what actually has been said and what has been involved in this. I am just wondering for the benefit of this committee whether that could be checked out.

Mr. Steenson: I intended to speak to Mr. Lupusella after we break up here today. Something that was new to me was an appearance we had before the Funeral Services Review Board. They were asking for procedures. They said many times they could see nothing wrong with me as the registrar of the board acting as a mediator, if that is a good word, whereby it does not have to come as an official complaint.

Once since that meeting a lady phoned me. I went out and visited her, got all the information, visited the funeral home, checked all the things out. She got a satisfactory adjustment and I ended up by saying, "Do you want to lodge a formal complaint or do you not?" She said: "No, I am perfectly satisfied. Thank you very much."

Mr. Lougheed: Mr. Epp, this was done on the direction of the review board. Up to that point we felt we were getting ourselves in a little bit too deep if we were actually sitting down and trying to mediate. Going back to the question of objectivity, we should be the objective ones saying, "Let us hear

both sides of the coin." This seems to be a precedent that will work, so we are definitely going to continue to try that.

Mr. Lupusella's question will be followed up by Mr. Steenson and the board executives you see here. I might suggest our track record indicates we take comments such as that very seriously.

One of Mr. Breaugh's and Mr. Lupusella's former caucus members was Mr. Germa. He made a comment in the House that he found a couple of instances that were excessive, and Mr. Steenson was in contact with him immediately and followed up on them. As it turned out, nothing materialized, but still, if you check the record, you will find out we followed it up immediately.

Mr. Epp: Did my predecessor have any complaints in the House?

Mr. Lougheed: Mr. Chairman, I would ask for direction in answering that question.

Mr. Watson: That must be some kind of an in joke. The rest of us are not in on it.

Mr. Epp: Somebody will fill you in later.

Mr. Steenson, with respect to pricing, you make up an annual report every year which is submitted to the Minister of Consumer and Commercial Relations?

Mr. Steenson: No, to the Minister of Health.

Mr. Epp: Does any report go to the Minister of Consumer and Commercial Relations?

Mr. Steenson: No. The particular piece of legislation we administer does not make that requirement. The Funeral Services Act says the board has to make an annual report to the minister, but the Prearranged Funeral Services Act does not.

Mr. Epp: Do you think you should? Would it be necessary or would it not be necessary? Would it be helpful or not helpful?

Mr. Steenson: With the permission of Mr. Lougheed, we have over the years had ongoing contact with the ministry through the superintendent of insurance, through Mr. Thompson and Mr. Terhune. Through that office, there is an ongoing communication. They are kept apprised of any problems the board has had with the Prearranged Funeral Services Act.

For about a year and a half now we have been trying to get them to change that act and tighten it up, to respond to Mr. Breaugh's question. I know as an inspector, and Mr. Lougheed and the board members know, that piece of legislation was passed in 1962 when the government at that time had no idea how many people would be anxious to prepay their funeral. It has grown to such size now that we realize that legislation is really not adequate to protect the public.

Mr. Lougheed, would you comment further on what we have asked for?

Mr. Lougheed: Mr. Epp, you brought up an interesting point. Going back to Mr. Breagh, Mr. Breagh tended to kind of get the jump on everyone else in the room because he raised a lot of issues, but one of the issues was Consumer and Commercial Relations.

Mr. Breagh: It is getting harder.

11:30 a.m.

Mr. Lougheed: The fact of the matter is the profession and the whole concept of funeral service has said, "We belong in the Ministry of Health, so we will do all our reporting to the Ministry of Health." This has basically been a luxury for the Ministry of Consumer and Commercial Relations. They have a free inspector to go around and inspect all the prearranged funeral trusts, make reports, lodge complaints, etc., with no retainer and no reimbursement to our board whatsoever.

We just fear with the fear of God in our hearts that if we said to you today, "Yes, we would like to make reports to the Consumer ministry," immediately some gentleman in the room would say: "Yes, that is where you belong. We will wave the flag, away we go and we will get you over in the Ministry of Consumer and Commercial Relations."

That is not what we are saying. Right now the Ministry of Consumer and Commercial Relations is really getting a free ride with our inspector and this board enforcing part of its legislation. We are 100 per cent convinced we belong in the Ministry of Health. By the same token, we are doing this act for the Ministry of Consumer and Commercial Relations with time, energy and money being spent on it with absolutely no reimbursement.

Mr. Epp: With respect to funerals and the cost of funerals, in that report to the Minister of Health would there be any problem with having the average cost of funerals per funeral home included in that report?

For instance, you have 520 funeral homes. As a benefit for the consumers of the province, it might be helpful to have an average price per funeral for each home. There would be no problem with that, would there? You have those statistics anyway. They are probably computerized.

Mr. Steenson: No.

Mr. Epp: Not yet? But when you go--

Mr. Lougheed: We want to keep his brain.

Mr. Epp: As the chairman says, there is a dead end.

Mr. Steenson: I will will my brain to the board.

Mr. Epp: You will include that in the future?

Mr. Steenson: That is a good suggestion. I will take it from the board, yes.

Mr. Loughheed: It is an excellent suggestion. I think it would obviously help committees like this when you call upon us if we could give you up-to-date figures.

Going back to the question of credibility, we hang on to outside people's average figures because it is far more credible to say, "Statistics Canada." That is not a bunch of funeral directors. If we gave our figure, someone in the room would jump up and say, "But you calculated that yourself."

A report to the minister has to have credibility. Therefore, the average figures could be out of our inspection reports. There is no problem.

Mr. Epp: Perhaps you could include details of what that figure included. There would have to be some general things that are included in all those averages.

Mr. Rotenberg: I have two matters. I gather that back in 1976 or something you revised your act and that was the time you got all these qualifications and licensing.

Mr. Loughheed: No.

Mr. Rotenberg: This may no longer be a problem. There are a number of people who had some trouble who were in the funeral business in their communities. Is there any grandfathering clause then or now?

Mr. Loughheed: Don, would you like to give the history to Mr. Rotenberg?

Mr. Rotenberg: Is the grandfathering clause still in effect? I have had the odd situation where people have complained that after many years they can no longer qualify.

Mr. Steenson: Under the old legislation the board had the power to grant a permit to someone like yourself, for example, who wanted to open a funeral home and operate it. The act said that for the purpose of serving the population in sparsely settled areas of the province the board could give you a permit. That permit did disappear with the new act, but everyone who was qualified as a funeral director under the previous legislation automatically received a licence.

Mr. Rotenberg: Without examination.

Mr. Steenson: That is right.

Mr. Rotenberg: The other point I want to pursue for a moment is your complaints and discipline process. I will preface it by saying I have no knowledge of anything wrong with it. This is from an academic point of view, as I read the act.

When a person makes a complaint about a funeral director, I gather that first goes to your complaints committee. The complaints committee would consider that complaint and either recommend it to the discipline committee or take no action.

When that complaints committee has its hearing, is the complainant present? Is he allowed to give evidence and is he allowed to cross-examine?

Mr. Steenson: By way of the legislation, a written complaint has to come to the registrar's office. As soon as that is in, the funeral director is notified I have the complaint and he is sent a photocopy of the complaint. Under the legislation, he is given two weeks to respond.

When he responds, the complainant gets a copy of his response and that person has a chance to respond. Mr. Crawford is on the complaints committee. If there is any investigation, and if there is any further information they want, they direct me to do the investigation and report back.

In only about three cases I can recall did the funeral director or the complainant actually come into the board office and speak to the complaints committee. Most times, because of distance, it is done either by letter or by telephone.

Mr. Rotenberg: The point I am trying to make is the complaints committee does sit down at the end of this process and review it to decide whether or not it goes on to the discipline committee. The question I really asked is does the complainant have a right to be present at that committee hearing, does the complainant have a right to make an oral presentation, and does the complainant have a right, if the funeral director is there, to cross-examine the funeral director?

Mr. Steenson: Under the act both parties have the right to be present.

Mr. Rotenberg: I notice the Statutory Powers Procedure Act is not mentioned in your legislation. Really, what I am getting at, does the complainant just sit there and listen or can he participate?

Mr. Loughheed: He can participate.

Mr. Rotenberg: If the complaints committee recommends it move on to the discipline committee, then another process happens. Am I correct that if the complaints committee says no action should be taken the complainant, if he wishes, can go to the review board, and again he has the rights of participation?

However, when it goes to the discipline committee, does the complainant again have rights as a participant? As I read your act, and I just read it hastily, the parties to the discipline committee are the board and the funeral director. Is the complainant a party to a discipline committee hearing?

Mr. Loughheed: The board has the lawyer for the

complainant; in other words, the consumer does not have to pay a dollar for legal representation at a discipline hearing. They come and they are always witnesses. I am a former discipline chairman and the fact of the matter is complainants are witnesses; they are called to give their testimony and they can either sit in the courtroom or, if they prefer not to do so, they can sit outside.

Mr. Rotenberg: Let us go a step further. Is the complainant considered to be what the lawyers call a party to the hearing? In other words, can the complainant not just be a witness but does the complainant have the right, or does his lawyer have the right, to cross-examine evidence, to cross-examine the funeral director?

Mr. Lougheed: The lawyer, yes. You are asking if a complainant can get up and start cross-examining witnesses. That has not happened in the three years during which I have participated, but their lawyers certainly have.

Mr. Rotenberg: I mean the complainant or his representative. What I am really getting at is we looked at other self-disciplining bodies and some of those rights are not available. I just want to make sure that both in law and in practice, at each stage--the complaints committee, the disciplinary hearing and review board--the complainant, if he chooses, can be present; and the complaintant, if he chooses, can be what the lawyers call, and you and I are not lawyers--

Mr. Lougheed: No.

Mr. Rotenberg: --a party to the hearing, which means he has the right, himself or through his lawyer, to cross-examine evidence, to make argument, as well as just be a witness.

Mr. Lougheed: I feel that is fair description of the process. Not having seen it actually happen, but I know it has taken place. I have heard complainants make comments to lawyers, etc., without any difficulty.

I might also point out, since you are concerned about the process or the decorum, that the complaints committee and the discipline committee are two different groups totally, and they have no communication with one another.

Mr. Rotenberg: Except written communication of the referral.

Mr. Lougheed: No, there is--

Mr. Rotenberg: The discipline committee would get a referral from the complaints committee saying this is a discipline matter.

Mr. Lougheed: The registrar receives the referral from complaints and calls the discipline committee to order saying, "We now have an issue before us."

Mr. Rotenberg: As I say, and I just want to stress it, I

have no complaints about your process but I want to make sure that your process does allow members of the public to have full participation and representation, and not just be treated as someone out there who makes a complaint and the next thing that happens is he gets a letter saying yes, he was guilty, or no, he was not guilty.

Mr. Lougheed: Exactly; Your first premise is quite correct, and it gets away from a kangaroo court.

Mr. Steenson: Not only that, but all of the evidence is given under oath and we have a court reporter there. We have a transcript of every hearing.

Mr. Lougheed: So anyone can go back and look at it.

Mr. Rotenberg: And that would be available if there was a lawsuit.

Mr. Chairman: Thank you. Perhaps Mr. Lupusella has a question, but Mr. Eichmanis can go first.

Mr. Eichmanis: On the question of no-frills funerals, I was wondering if you can explain what that means, what that is all about and what the problem associated with that word or concept is.

Mr. Lougheed: I suggest back to you the term is your term. Your researcher came up with the term "no frills". I do not think that is a popular term within the province, to be honest with you, but I assume you have other issues that are no frills, and you might as well have a no-frills funeral.

Most people call that a direct disposition or immediate cremation funeral. In Thunder Bay they call it a convenience funeral. There are many terms that are used in Ontario.

11:40 a.m.

I would likely have to say that Mrs. Poole, Mr. Crawford and I have all come on the board after the decision was made to proceed with that judicial process, so that now we are talking in hindsight.

The district judge in Thunder Bay, having heard the case, suggested that such a funeral did not fall under the definition of a funeral. He went to three dictionaries, I believe, if you check the transcript of the court proceedings, and he found that a funeral was a ceremony, a procession, a ritual. Any of you can leave here and go to your office and look that up.

He then suggested that if you die at a hospital and go right to a crematorium, you are involved in none of those, so therefore that did not qualify as a funeral.

He then kind of took what I guess was a backhanded swipe at the legislation itself and said, "Where is it defined in an act what a funeral is?" Well, it is not. You will notice in the act it defines funeral supplies and that type of thing, but it does not

say what a funeral is. He suggested, in the changing of the norm in our society, that therefore this should not be just administered by our Funeral Services Act, but anyone in Ontario should be allowed to practice that.

After discussions and after it went to the Supreme Court of Ontario, I think three things came out. One is that the co-operative was serving its members. Second, it was a nonprofit co-operative. Third, the cardboard box that was referred to in the hearing was not readily accessible at the funeral homes. They did not use a cardboard container; they used a fibreboard or chipboard, but not a cardboard container.

In my visit with the co-operative and the memorial society membership in December, it was interesting to note that they really did not want to continue with their co-operative, that they would rather have a working relationship with the funeral homes; that was said to me quite publicly by their directors.

I then went to the funeral directors and suggested that they should have some sort of dialogue. Immediately, because of the negative history of the number of years that they have had this difference of opinion, they decided maybe they could not do anything immediately, but as I mentioned to Mr. Breagh in response to his first question, there is a dialogue now. Two funeral homes have talked to the society and the co-operative and things are improving.

The no-frills question has raised a lot of issues. There are persons of certain religious beliefs who do not believe in funeral homes. They believe certain religious buildings are the places to which they want bodies to be brought. Is that a no-frills funeral? We have legal opinion that suggests perhaps that is a ritual or a ceremony, or there will be a procession to a cemetery. So really we have opened a new issue that our board is looking at and seeking direction on.

I think the very negative, the very poor thing about the whole issue, is that in Ontario, prior to this decision, such funerals were being offered by all funeral homes with which I am familiar. Those funerals were accessible to the public and the 30,000 memorial society members in Ontario usually have an agreement with the funeral home in their locality for such a funeral. To suggest that such funerals were not being provided in Ontario is not correct.

Mr. Eichmanis: If I can go through on this: if they do not come within the act, according to the judge, then literally anybody can offer them.

Mr. Loughheed: Again, I do not want to get picky, but if by offer "them" you mean the no-frills funeral, under the decision given by the Supreme Court of Ontario you are correct.

Mr. Eichmanis: How does your board view that? Do you think that should be changed so that those come within your jurisdiction or should it be left out, as the court--

Mr. Lougheed: You gentlemen are responsible to your constituents. We had a situation less than two years ago in which a person died in a hospital, a volunteer went and got a station wagon, put the body in the station wagon and took it to a place that was more of a storage area, kept it for the 48 hours that is necessary for cremation and took it to the crematorium.

If any one of your constituents had a problem and someone had broken into that garage or done something like that, would your constituent have asked you what law protects them for such a thing? Would they not say the board of funeral service should not allow dead human bodies just to be taken by anybody at any time?

I am not going to give you a definitive answer and say yes, because there might be the criticism that we want a monopoly. We do not necessarily want a monopoly, but we want someone to be answerable if something goes wrong. If given that jurisdiction, I think our board would be able to answer to those people if something did go amiss.

Mr. Eichmanis: What you are suggesting here is that, in effect, you come within the Ministry of Health, and the reason for that is to ensure that sanitary conditions exist in the homes.

Mr. Lougheed: That is right.

Mr. Eichmanis: But by the example you use, in effect people can do what they like.

Mr. Lougheed: Again I go back to your word "them." Under the definition, if you belong to a co-operative and you are a member in good standing, if it is nonprofit and you are not going to have any ritual or ceremony, you are right, that is what this has opened the door for.

Mr. Eichmanis: So there is no supervision, no inspection of what they do.

Mr. Lougheed: If you read the Supreme Court decision, they can continue beyond the parameters of our board's jurisdiction; we are to be looking after funerals.

Mr. Rotenberg: Would you suggest there should be a change and a better definition of funeral and some change in the act to cover these? Not even covered by your association, just have these kind of things covered by the Ministry of Health?

Mr. Lougheed: Somebody has to be answerable for them and I would definitely suggest a better definition of the word "funeral." I think all of us would be in agreement to that. That is where the whole issue started, with the definition of funeral.

Mr. Rotenberg: Are you suggesting these individual situations where somebody wants simply to be taken from a hospital to the crematorium should come under the jurisdiction in some manner or are you simply suggesting those people should come under a different section or a different act so that every person who in effect handles a dead body has to be answerable to say the Ministry of Health?

Mr. Loughheed: In an age when we do not want redundant bureaucracy, I think that since there is a board established it would not be very difficult to allow some legislation to have an overview of that. But at no time would I want it to be interpreted that the funeral profession is trying to gain control or usurp control of all deaths in Ontario.

The thing I find very confusing is that in Toronto today you have over 40 funeral homes. To me that is competition. People can pick one of those 40 and if you do not do a good job, you are going to go out of business. If you do not provide the services, people will not use you. Constantly coming back to the idea that these 520 funeral homes are some great conglomerate and we are all in one another's back pocket, I think there is competition, and needs are being met or you would have a heck of a lot more complaints. You would have a lot more angry constituent letters. Therefore, I think we are a working board and maybe you could broaden our framework to cover that.

Mr. Rotenberg: Do you have now or would you have in the next period of time some suggestion of the type of definition, the type of regulation we might add into the act to cover these kinds of situations?

Second, I think you said this, but just to clarify it. Are there a number of funeral directors or funeral homes which would supply this kind of "no-frill situation" of the memorial society?

Mr. Loughheed: Definitely. If you talk to L. E. Elder or Eric Inch, or Jeanne Hewitt who sits on our board, they will talk in positive terms about co-operating funeral directors. This is why it is the minority that is really colouring this issue in a negative sense and it is not really fair to the rest of the province.

Mr. Rotenberg: Mr. Chairman, I am not too sure of the answer to this, but in my opinion there is a hole in the legislation somewhere. I am not too sure how it should be plugged. Maybe, with some input from this group, our researcher can give us some ideas.

Mr. Eichmanis: Certainly, I will pursue this further. Would it be fair to say that the problem with a no-frills service when it is done outside the funeral homes, outside your jurisdiction, is sanitation, proper care of the body and all that sort of thing? Or does it have to go beyond that? Do you have to do the same sort of thing you do with your funeral homes, make an inspection of books and all that kind of thing?

Mr. Steenson: May I answer just for a moment?

I am concerned, just the way you are, Mr. Eichmanis, about, not unqualified people, but people who are not trained to do certain things, handling dead human bodies. Probably you have read in the press of the problems we have had in the United States, especially since hepatitis B has come out and the acquired immune deficiency syndrome. Some of the funeral homes down there are just saying to their clients, "Do not bring the body here, we will not touch it."

I am sure most of you people might anticipate what would happen if somebody was doing a no-frills burial for a co-op, such as Thunder Bay, and the two men handling that body did not know about it and all of a sudden they contracted one of these diseases. It is only right that somewhere along the line somebody should be warned that they could run into problems.

That is the only fear I have as an inspector when I see the number of our own qualified people coming down with various diseases they contract from dead human bodies.

Mr. Eichmanis: The next question is, are the funeral homes inspected by someone other than you?

Mr. Steenson: Yes.

Mr. Lougheed: The health inspector for each community has to inspect the funeral home. Our board provides the document they have to fill out and approve and it is sent back and kept on record in the office. Not only are we having what might be considered a lay inspection, we are also having a professional health inspection as well.

11:50 a.m.

Mr. Rotenberg: Annually?

Mr. Lougheed: Annually.

Mr. Eichmanis: Do the same local health boards inspect the co-op people as well.

Mr. Steenson: No, because they do not have any facilities. As I understand it, when a death occurred in Thunder Bay, a couple of volunteers would borrow a station wagon, go to the hospital and take the body to the garage of one of their homes. They would leave the body there until the 48-hour period elapsed for cremation. All of their no-frills funerals were cremations. Then at the end of the 48-hour period they would put the body in a cardboard box and take it out to the crematorium.

Mr. Eichmanis: So you are saying there is no piece of legislation in Ontario that would cover some kind of inspection for that kind of funeral service.

Mr. Rotenberg: There is no legislation that covers the way these people handle it. They are free to do whatever they want.

Mr. Lougheed: By the way, when you asked a question and I mentioned it is a new issue, I think new issues bring new thoughts and take new mentalities to kind of accept things. I think the Thunder Bay people were quite correct, if they were not getting co-operation from the four funeral homes, to create an issue that now needs this committee and our board and everybody else to take a look at it.

I have a few problems, not only as chairman of the board of funeral service, but as a funeral director. I mentioned the public

trustee when the chairman asked the question. In a community the funeral director will provide a funeral for the public trustee for \$950 plus burial expenses, yet a constituent of yours, or a consumer comes to this board and says, "But I went into his funeral home and his basic funeral started at \$2,000. How is he doing these public trustee funerals? Why is that not available to the entire public?"

We are looking at broader issues this board has a mandate to look at. They are very significant and real issues. We either have to sit down across the board and say these are reasonable costs and should be available to everybody, not just the public trustee or Department of Veterans Affairs or whatever or on the other side of the coin, say we cannot allow a situation to develop where you may have a health hazard.

Second, I always ask people when they are dealing in this topic: "What if it was your own family member and you were not too happy about how things worked out or you kind of wondered what kind of cardboard box it was, and you could not get any answers for that? Would you be just satisfied that it ended at that locality?"

Like Mr. Lupusella, would you say, "No, I would like to know there is a group I can complain to and I want it investigated." Right now, that part of the clientele or that part of Ontario has no recourse.

Mr. Eichmanis: Would the legislation not make it illegal for anyone other than a funeral director to dispose of a body?

Mr. Lougheed: Again, I think that is for you gentlemen to decide and your ingenuity will come into play. Obviously, the funeral homes are established in the communities and are serving a bereaved population. That is fine. But if you did decide you will not allow Thunder Bay to keep operating, they may close down on their own if they get an agreement with the funeral home, but we want that leverage there. You may increase the mandate of this board to inspect, to have jurisdiction over "no-frills operations," to use a better terminology. Would that be possible?

Again, the perceived mentality is funeral directors want to control everything. It just has to be fair and equitable to everybody in Ontario, not just those who have traditional funerals.

Mr. Eichmanis: Could I just pursue another matter? There is some suggestion that there is some difficulty in appointments to the board.

Mr. Lougheed: Yes, there is.

Mr. Eichmanis: Could you go into that a little bit?

Mr. Lougheed: Mr. Watson asked about the availability to make recommendations to this committee. I would make a recommendation that the appointments could be reviewed and decided upon long before our due dates come up. Last year, we ended up disbanding the board on November 27 and reconvening our board in

February. Last year we likely could not have sat in front of your committee today because the appointments took that long to make.

This year we disbanded on November 27 and we reconvened Christmas week, so we could constitute our executive and continue with our business. Last year was likely the horror story of all the years because Mr. Crawford sat alone. He was the only gentleman on our board who did not need to be reappointed or whose term had not expired. Of the other seven members on our board, myself and Mr. Coates were reappointed and the other five members were newly appointed.

In essence, we had a one-man board for a period of three weeks while the old board disbanded and the new board was convened. Ultimately, responsibility then rested with the registrar, about which some people may say, "Well, that is certainly not the way the act was set up. It has to have a constituted board in force at all times." My suggestion might be that if in October the names could be reviewed, the appointments be known, then in November--

Mr. Eichmanis: It is not really in our jurisdiction to make those appointments.

Mr. Lougheed: It is a recommendation that I am suggesting.

Mr. Steenson: The same thing will happen in 1986. Seven out of eight members of the board will disappear in 1986 because their terms are all up in 1986. When this act was first brought in the Minister of Health made appointments, some for one year, some for two and some for three years, but that system seems to have gone by the boards. If I am still around, I will end up again with a one-person board in November 1986.

Mr. Eichmanis: What you are recommending is a staggered kind of appointing process.

Mr. Lougheed: Exactly; as it initially was supposed to have been set up. If at least a majority of the board members could continue from year to year, there would be a continuity of decision-making and decorum.

Mr. Lupusella: After making my remarks, I do not think I will get a good funeral service 200 years from now.

Mr. Lougheed: Your colleagues may suggest they will offer you a good funeral service.

Mr. Lupusella: I am sorry I missed the statements made by the inspector. I have a few questions. How do you see your role as an inspector? From the comments you made while I was here, I see your role as being a building inspector unless you made other comments I missed. Do you think your role as inspector should be expanded? Perhaps you have power to incorporate other functions which I am not aware of.

Mr. Steenson: I was told my role was that of a

policeman. I do not like that terminology. From what the chairman has told you, I bring back reports. It looks as if I can be a building inspector, but I am not. I look at a community and see if the building is adequate for that. I go on further and view my role as a policeman for the public. That is really my role.

As the act says, anybody who has a complaint has to come through the registrar with a letter of complaint. Many times, the board office is used by the public to come in and ask questions. It may end in a complaint but they want to know the direction to go. Many times, phone calls and visits to the office are from constituents or members of the public seeking direction and information.

Mr. Lupusella: Am I correct in assuming that part of your duty is to inspect the buildings on a yearly basis, once or twice a year? If a complaint has been launched before the registrar, and the board gives you the function of inspecting a complaint, it is your duty to go and inspect the complaint. Am I correct?

Mr. Steenson: I do. Yes.

Mr. Lupusella: Through the course of your investigations which take place once or twice a year, you do not get into the books of the funeral homes.

Mr. Steenson: I have access to the books only where I have reason to believe something untoward is happening.

Mr. Lupusella: At the end of the fiscal year, each funeral home reports to the board about prices and how many services have taken place. How do you go about it?

Mr. Steenson: The report does not give the prices of funerals. Under the legislation, they report to the board for renewal of their licences the name of the establishment, who the manager is, the names of the directors if it is a corporation, whether they have prepaid funeral funds and, if so, how much, where the funds are held, and then the number of deaths the establishment registered during the board's fiscal year.

Mr. Lupusella: How can we get to the point, then, that overcharging on funeral services is not an issue when you investigate if you have complaints launched before the registrar? You do not have any way to detect whether overcharging is really a problem among the funeral homes. Am I correct?

12 noon

Mr. Steenson: I get the prices of funerals by the inspections. You were here when I said I report to the board. Then the board, in its wisdom, may indicate that it appears in a particular home the price is excessive--we use this word "excessive" again. The board then orders me to write to the funeral director saying his prices appear to be excessive.

The crunch is that when it goes to the discipline committee,

the funeral director is charged under the act with charging fees that are excessive in relation to the services provided. Then it goes before the discipline tribunal, with lawyers present, cross-examination and expert witnesses, and it comes back to the three people on the discipline committee to determine whether or not it is excessive.

Mr. Lupusella: I am sorry if I am pursuing this principle. You are able to detect that on a particular service there was an overcharge if there was a complaint launched. That is the time you are able to analyse if there was an overcharge. Then you write letters to the director and at his discretion maybe he or she will send the money back to the client.

From the general statistics given to you by the funeral home, do you have any idea as to whether or not there was an overcharge for an individual service provided by the funeral home to the people who go to the service?

Mr. Steenson: To me, that is right. It might appear excessive.

Mr. Lupusella: Do you get the information?

Mr. Loughheed: We are not given that information because we have no power to require that information. I hear what you are saying. You are asking if at the end of each year the revenues of the funeral home are sent to the board and then we can see how many funerals they have--

Mr. Lupusella: You have the total, nothing else.

Mr. Loughheed: We cannot ask that.

Mr. Lupusella: There is no way to detect as to whether or not an overcharge has taken place on a particular service?

Mr. Loughheed: No, but going back to your word of generality, in the inspections we can generally inspect their prices and say, "You are overcharging."

Let us say you go to the ABC funeral home. We have inspected there and we said, "No, they are overcharging." We send a letter and the owner may reduce the prices. However, if the DEF funeral home had your mother's funeral and you felt you were overcharged, your particular Lupusella funeral will not come to our board office unless you bring to our attention that there has been a problem.

Mr. Lupusella: There is no problem with that, unless the complaint has been raised by the complainer before the registrar and the board, but I am particularly concerned about an overcharge on the overall service provided by the funeral home for each individual case. You do not have any access to this information.

Mr. Loughheed: We not only do not have access, under the legislation we do not have the power to ask for that information.

Mr. Lupusella: Do you think you should have this power and the act should be amended?

Mr. Loughheed: It would certainly make our job a little bit easier, but I would suggest to you that there will be a great outcry about invasion of privacy within our province. It will be up to you gentlemen and ladies to make that recommendation. All I can say is that certainly within the framework of our board, the more information we get, the better we can make decisions. That is all I can say.

Mr. Lupusella: If such a process takes place and eventually this committee in its wisdom will carry on with this recommendation in the final report, do you think that you should have more than one inspector, or rather have one inspecting the facility of the funeral home because the dimension and the role of the inspector will be enlarged?

Mr. Loughheed: It is odd you bring that up, because I have that on my list of points that I would like to raise to you once we have finished our discussions. If you look at our financial statement, you will find that we have a deficit of \$18,000 this year, which obviously means we are not going overboard. If you look at our per diems and our board members' costs, you will find we are likely one of the few government boards that will ever appear before you whose cost has actually gone down every year.

We have had more meetings in recent years and yet our expenses are down. We are very cost conscious. We attribute our deficit to our legal proceedings and our discipline hearings. We feel if we increase our dialogue, communication and education, maybe we will not have as many discipline hearings. This past few months you are likely aware we have a new fee structure, so we feel we will likely be able to contain costs by better communications, and we do have increased revenues.

It would be conceivable that a couple of years down the road we would have enough money to generate a position of a full-time inspector and a full-time administrator. At that time we could experiment with putting someone on the road five days a week, eight hours a day and having someone sit in the office and administer these type of procedures and complaints, etc. and be able to use a two-man staff.

However, as you are also likely aware, according to your report, you are not providing any funds for this. It is totally from a licensing fee, and of course licensees will only accept so much of a fee increase at a given time. Right now we are trying to do the best job with the resources we have available. Certainly more revenue will make a better job.

Mr. Lupusella: Besides the licence fees, the funeral homes are not contributing to a special fund which is available to the board--

Mr. Loughheed: If I can correct a myth in our province, it is that the funeral directors love this board. They view us as

you do. They are quite convinced this board represents the government.

Every time we make a presentation we are asked, "What are you trying to do, put the government down our throats?" We are viewed as an extension of you. The irony is we come before you and some of you view us as an extension of the profession, which is not the way it perceives us at all.

Mr. Lupusella: That is why we will not get good service.

Mr. Loughheed: You will get excellent service.

Mr. Lupusella: The other question is about a ritual service which I notice takes place before the body is taken before the church and then to the cemetery. The procession will pass by the house of the individual who passed away. Is the request made available by the funeral home or is an individual request made by the family close to a person who passed away?

Mr. Loughheed: I think you are perhaps reflecting a Mediterranean heritage. We serve a large Mediterranean clientele and, when we make funeral arrangements, we ask the family what it would like to have.

As you know, the custom in the Italian community especially, is to have the last leave by the house. In Sudbury, even in the cold weather, we put a bouquet of flowers on the doorstep when we drive by. To another ethnic group that ritual may be silly and they would ask, "Why would you ever do that?"

I think you are down to a discussion of local customs and expectations, but I think any funeral director who serves that clientele would definitely be sensitive and responsive to them.

Mr. Lupusella: Is there an extra charge for that?

Mr. Loughheed: There is none whatsoever in Sudbury, but it sounds as if Sudbury perhaps is an anomaly in the whole province.

Mr. Lupusella: I do not know about Toronto.

Mr. Eichmanis: You said you have a list of the things you want to raise with us. Did we cover those?

Mr. Loughheed: I might suggest this committee should look at the retainer for the Prearranged Funeral Services Act and its administration.

Second, Mr. Johnson, who has now left us, had questions about welfare. We do get questions such as that, questions that do not fall under our jurisdiction. Perhaps some of you could consider--and perhaps it is even changed this year, although I do not think it is--under mother's allowance that a bereaved mother can only have \$3,000 in the bank or they will not provide a mother's allowance pension. Certain people find this out after the funeral. Perhaps these are issues you should be looking at as well.

I come back to what I started with. All these questions, if you stop and think about it, are the whole question of death education. Everyone in this room has likely endorsed, participated in, sat on committees or been in parent groups that talked about sex education. We seem to be quite quick to teach our young people propagation, but we are not so quick to teach kids about the finality of this whole existence and that death is an inevitable event in our lives. I might suggest to you that if you have--

Mr. Rotenberg: Except for this government.

Mr. Loughheed: Mr. Chairman, I will not comment on that at all.

If you are looking for recommendations, I might suggest that as you analyse what you asked this board, it all came back to getting more information, more enlightenment and more education. Does it not stand to reason to start developing death education? Maybe we would not have such obsessions and fixations about costs, procedures and rituals if we understood them a little better. I make that suggestion.

Finally, I might as well share a fear I guess we had when we were invited here. We received your letter, your questionnaire and your report back, and we said: "This must be an offspring of Reagan, with all the sunset laws, reviews and revisions. You folks are indulging in the same practice."

I think it is good. As a taxpayer in Ontario, I encourage you to keep doing it. As the discussion has unfolded, I hope we have shown you our board has a great function and, if anything, we would encourage more support for our board, because I think in essence we are meeting the consumers' needs and maintaining a standard of funeral practice that is acceptable to the people of Ontario.

The Acting Chairman (Mr. McLean): I would like to thank you for your presentation this morning. I would also like to show my appreciation to Michael Kilpatrick for the assistance he gave our researcher in bringing up some of the details we had to discuss.

12:10 p.m.

Mr. Steenson: Mr. Chairman, there is just one thing I would like to suggest. I have mentioned this to the chairman before. It has to do with the funeral services review board.

I think it is good we have a funeral services review board, but if there is a weakness it is that the review board's role is restricted in such a way that, if the complainant is not satisfied with the complaints committee, he can go to the review board, but the review board does not have the teeth to require the complainant to be present.

The board is represented, of course, and the complaints committee and myself are there, and the funeral director usually shows up, but the board has no mandate to order the complainant to

appear before it. We have had over eight cases go to the review board where the person who lodged the complaint did not show up. To me, working with it, one weakness of the funeral service review board is the fact that the legislation has not given enough authority so it can say, "Okay, you want us to take a look at it, you had better be here."

Mr. Rotenberg: Would it not be the complainant who asked for the review board hearing?

Mr. Steenson: Right.

Mr. Rotenberg: So if he does not show up at the hearing then--

Mr. Steenson: That is what I think, but so often the funeral director travels a great distance from some point in Ontario to present his side of the story but the complainant does not show up. I do not think that is fair.

The Acting Chairman: Thank you very much.

I would like to thank you for the extra input you just gave us; I think that we should consider that when we are dealing with further recommendations.

We will recess until two o'clock when the committee will carry on with an in-camera meeting.

The committee recessed at 12:11 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

PREMATURE DISCLOSURE OF COMMITTEE REPORTS

AGENCY REVIEW

COMMITTEE BUDGET

THURSDAY, MAY 17, 1984



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)

VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)

Breaugh, M. J. (Oshawa NDP)

Cassidy, M. (Ottawa Centre NDP)

Cureatz, S. L., (Durham East PC)

Edighoffer, H. A. (Perth L)

Epp, H. A. (Waterloo North L)

Kells, M. C. (Humber PC)

Mancini, R. (Essex South L)

McNeil, R. K. (Elgin PC)

Rotenberg, D. (Wilson Heights PC)

Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Clerk: Forsyth, S.

Staff: Eichmanis, J., Researcher, Legislative Library

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, May 17, 1984

The committee met at 10:12 a.m. in room 228.

After other business:

10:23 a.m.

PREMATURE DISCLOSURE OF COMMITTEE REPORTS

The Vice-Chairman: The first matter we are going to deal with on Hansard is how you want the report to be treated when it goes into the Legislature. Do you want it adopted--

Mr. Epp: Expeditiously.

Clerk of the Committee: We can either present it with the request that it be debated or present it and move its adoption. We usually move the adoption of the recommendation.

Mr. Epp: Does that mean that it is not debated?

Clerk of the Committee: No, they have not been debated for a while. They are only debated when the House leader calls them. They have not called them for a while.

Interjection: Otherwise they just sit.

Mr. Cassidy: So, our reports, although we have moved their adoption, have never been adopted. Is that right?

Clerk of the Committee: Not in the last six months, I should say.

Mr. Cassidy: Were they adopted previously or not?

Interjection: No.

Mr. Edighoffer: The others are still sitting on the order paper.

Clerk of the Committee: One--

Mr. Cassidy: The last one.

Mr. Epp: I can understand because the House has been so terribly busy these last two months that we did not have time for it.

Mr. Cassidy: That is what it has been, I know. The pressure has been tremendous.

Interjection: I noticed that too.

Mr. Cassidy: I suggest that we move its adoption and that some intercession take place with the House leader to take all of the outstanding reports, including this one, and put them up maybe some Thursday evening in the fall and get them all adopted by the House.

Interjection: You cannot put them all together.

The Vice-Chairman: --moving the adoption and have somebody moving the adjournment of the debate.

Clerk of the Committee: When you move the adoption, you move the adjournment.

The second option is just to present the report and ask that it be debated. There is no question put at the end.

The Vice-Chairman: Okay. But the adoption comes and then whoever presents it moves the adjournment of the debate.

Clerk of the Committee: And then it just sits on the order paper.

The Vice-Chairman: That is the way it has to go, is it not?

Interjection.

The Vice-Chairman: That is the practice from a practical point of view, is it not?

Clerk of the Committee: It has been our practice that that is what we do.

The Vice-Chairman: Is it agreed that is what we do?

Agreed.

AGENCY REVIEW

The Vice-Chairman: Turning to agency review, apparently we have a couple of items we would like some discussion on. One is the Niagara Falls Bridge Commission, and the other is the Soldiers' Aid Commission.

Mr. Eichmanis: Last week I got a call from Mr. Misener of the Niagara Falls Bridge Commission, who informed me that the bridge commission is constituted under an act of the American Congress, which presents some problems. Technically, though--

Mr. Epp: That means we have to go to Washington first.

Mr. Eichmanis: Technically, though, they are within our jurisdiction or mandate, because apparently the Lieutenant Governor in Council does appoint four members to that commission. But in terms of legislative jurisdiction, it is an agency of the American Congress. So we have a curious kind of anomaly here,

where it is created by a different jurisdiction but we appoint some members.

Mr. Cassidy: But the bridge commission-

Mr. Eichmanis: I am not entirely sure. I must point out that I talked to the cabinet office on this issue; Mr. Healy, who is responsible for this area, indicated to me that the cabinet office would make a formal reply to the committee on this issue.

Informally, he indicated to me that he did not see any problem with the committee inviting the commission to appear before the committee for information--that is, simply to discuss what the commission is about, how it operates and so on--but that he would have some hesitation about the committee making any substantive recommendations with respect to the commission, since it is an agency of the American Congress.

Mr. Cassidy: It seems to me to be a point. I am not sure whether there are any financial obligations involved.

Mr. Eichmanis: He indicated to me it is just the per diems for those commissioners.

Mr. Cassidy: And they are paid by Ontario; is that right?

Mr. Eichmanis: The Ontario commissioners are paid by Ontario, I understand.

Mr. Epp: It is an international commission.

Mr. Eichmanis: It appears to be.

Mr. Epp: I find it difficult to understand why Ontario would appoint people as opposed to the federal government appointing them.

Clerk of the Committee: The federal government may well have asked the Ontario government to appoint representatives.

The Vice-Chairman: The same thought goes through my head. How did we get involved in an international bridge commission?

Mr. Eichmanis: The cabinet office is going to make a report explaining how everything works and what the problems and issues are. My only suggestion to the committee is to wait upon that reply from the cabinet office.

Mr. Cassidy: We can wait for the reply, but it seems to me there is no particular reason for not going forward. It is only one of eight or nine agencies. It is not as though we are devoting a whole week to it.

Mr. Epp: Two things: I think Mike is right; there is no reason why we should not go forward at this time, and I think we should. The other thing is that they might want to expedite getting us some kind of report on that rather than leaving it

until the end of June or something of that nature, so we can deal with it.

Mr. Eichmanis: I will call again and see what the status of that letter to the committee is.

The Vice-Chairman: We will bring that back for a further decision.

10:30 a.m.

Mr. Eichmanis: The other issue is one I am not too familiar with. It is a matter relating to the Soldiers' Aid Commission. I talked to the chairman briefly last week. He indicated to me there was some concern--I do not know on whose part--that the chairman of that commission is rather old and I believe has cancer. There was some indication from someone that we should delay reviewing that commission.

That is as much as I know from the chairman. Since he is not here--

Mr. Epp: Is there a deputy chairman or a vice-chairman or an executive director?

Mr. Eichmanis: Most agencies have a vice-chairman, but I do not know any further than that. It was the chairman who--

Mr. Epp: Just because the chairman is ill, I do not think is a reason for not reviewing it.

Mr. Eichmanis: As I say, that is as much as I know.

The Vice-Chairman: Have you looked into the Soldier's Aid Commission?

Mr. Eichmanis: Yes, a little bit. The public accounts committee reviewed it several years ago at the suggestion of the Provincial Auditor. The suggestion was made that the commission should be terminated because apparently the administrative costs are greater than the amount of money it actually dispenses for the services--

The Vice-Chairman: How much are the administrative costs?

Mr. Eichmanis: If I am not mistaken, somewhere in the mid to high \$20,000s. The amount of money dispensed at that time was in the low \$20,000s. The combined total was around \$50,000.

The Vice-Chairman: I did not think it was so high.

Mr. Eichmanis: This was several years ago.

The Vice-Chairman: Yes. It is under the Ministry of Community and Social Services and, as I recall, it was reviewed a little bit internally because of the public accounts committee. It was not terminated administratively, I guess, because of

sentiment. I think we can leave it at that. It is going to die a natural death one of these days.

I was not here when that one was put on the list or I would have voted against reviewing it. I only know superficially what is involved, but I think you will find it is one of those, from the standpoint of what it does, that probably should be terminated. From the standpoint of people who take part in the veterans' aspect of it, it may frustrate some people.

Mr. Epp: Realistically it should be terminated, but politically it is not a good move.

The Vice-Chairman: No, I do not think politics have anything to do with it. I think it is sentiment in terms of the associations with veterans' organizations.

Mr. Cassidy: Then you are saying it is political.

The Vice-Chairman: It is small "p" political.

Mr. Epp: I do not mean partisan political. I mean--

The Vice-Chairman: Small "p" politically, you may have some frustrations with it now.

Mr. Epp: Why do we not have John look into it a little more and find out what is going on?

The Vice-Chairman: I doubt if it has a vice-chairman. Lawrence Crawford used to look after it. He was before the standing committee on social development yesterday. It is down to one event a year. I think it is mostly First World War veterans.

Mr. Eichmanis: Yes, First World War. That is when it started.

The Vice-Chairman: I know (inaudible). It is one we will have no questions (inaudible). If it has 25 First World War veterans in once a year, are you going to vote to cut that off?

Mr. Edighoffer: If the chairman is unable to come and there are no other representatives coming--

The Vice-Chairman: It will die.

Mr. Edighoffer: --we will let it go.

The Vice-Chairman: I do not want to mislead you, but it is that kind of a thing.

Mr. Epp: No, there is some sensitivity involved.

The Vice-Chairman: There is a sensitivity involved in that one. I know that.

Mr. Cassidy: There was a commission for the victims of the 1916 Halifax port disaster. Eventually all of the

beneficiaries, as was bound to happen, died. They found the commission was still operating. That is what they were doing.

The Vice-Chairman: If that is the way this comes, that is fine. If there is no activity, at some point it should be terminated. I do not think you will find a lot of arguments from somebody who is looking at straight administration, but there may be some other factors.

Mr. Edighoffer: Yes.

The Vice-Chairman: One of the suggestions that we as a committee maybe should have put in on the adoption of our report is how we are going treat the report we just completed. Should we as a committee make a request to the House leaders that the report we made on procedures get on to the House schedule?

Mr. Cassidy: Definitely.

Mr. Epp: I think it should be debated.

Mr. Cassidy: I do not know where we get the energy to make any changes at all, but if only because of what is known as the Hawthorne effect. The House will respond to a change, even if the change is not that ill. There are some useful things there. If maybe we can put some energy into trying to get the House to look at it, that would be useful.

The Vice-Chairman: How would you recommend we do this, Mr. Clerk?

Clerk of the Committee: We can write to the House leaders, if that is what the committee wants, asking that they give consideration to bringing it forward at the earliest opportunity.

Mr. Cassidy: I would so move.

The Vice-Chairman: Okay.

Mr. Epp: In proceeding with this, I do not disagree, but are we going to get enough committee members to debate the thing in the House? It would be very embarrassing to have it scheduled to be debated on a Thursday evening and then have about three people speak on it, one from each party and that is it, and have the House close down at 9:30 p.m. because there is not enough interest.

The Vice-Chairman: I think there will be interest in this one.

Mr. Edighoffer: I would think so.

The Vice-Chairman: I think if you were doing the Soldiers' Aid Commission you would find you would run out of steam pretty fast, but on this one you will not.

Mr. Epp: Okay.

The Vice-Chairman: Maybe I am misleading you, but I know there are people on our side who are prepared to speak to it, sort of yes and iffy. I am sure there are people on your side over there.

Mr. Epp: If we could get the three party leaders to speak, that would be even better.

The Vice-Chairman: That would provide some interesting entertainment.

Mr. Cassidy: I think we could probably all put on some pressure within our own respective caucuses.

The Vice-Chairman: Maybe it would be better if we did not.

Mr. Epp: Maybe we should send a letter of invitation to all three of them.

The Vice-Chairman: Write the speech for them maybe. Is everyone in favour of that course of action, that we send a letter to the House leaders requesting that the report on the rules be debated as soon as possible?

Agreed to.

COMMITTEE BUDGET

The Vice-Chairman: Okay, the next item I have is the budget.

Clerk of the Committee: You have the budget prepared, based on last week's discussion.

Mr. Edighoffer: What are the "witness expenses"?

Clerk of the Committee: That is for people like Walter Baker or (inaudible). Generally, if we have to bring them in, we pay their air fare or their transportation. It is when we specifically invite someone to appear before the committee.

10:40 a.m.

Mr. Edighoffer: I wonder if the chairman could tell us how he is going to explain this trip across the foam to the Board of Internal Economy.

The Vice-Chairman: Sam, where are you?

Has there been any approach made to the Board of Internal Economy yet?

Clerk of the Committee: No. The committee has to approve the budget and instruct the chairman to take it to the board. I think the chairman said last week that if you so instruct him, he would take it to the board on the basis that if they did not

approve of one of the trips or both of the trips he would withdraw it and bring it back to the committee for further consideration.

Mr. Epp: There was some discussion of this last week. I think there was unanimity among the members about their feelings.

Mr. Edighoffer: I will move its adoption.

The Vice-Chairman: We have a motion to adopt the budget. The total budget is \$113,905. Is there any discussion?

Mr. Edighoffer: We will hold that off until we get a report from the chairman on his return from the Board of Internal Economy.

Clerk of the Committee: We have to approve the budget to take it.

The Vice-Chairman: We have to approve the budget to take it. I just got this this morning, as you did this morning. I am maybe a little slow here.

Clerk of the Committee: There is provision for seven weeks of hearings on agency reviews or other matters. We usually take about three weeks in the summer and three weeks in the winter. I have added one extra week; a four-day week.

Mr. Epp: Is there any proposal on what time we are going to be sitting in September and October?

Clerk of the Committee: Not yet.

I phoned London to check on the European assembly sitting. The person I know there will have no information until the middle to end of June.

The European assembly's elections are around June 17. Until they have the elections and the members are returned, no sitting dates will be announced. I assume this committee, if this is approved, would not want any trip to interfere with--

Mr. Cassidy: I read in the paper that some entrepreneur wants to sell hot cross buns to the Pope. I would not want to miss that.

The Vice-Chairman: I wonder if you should mention what is involved in the catering service.

Clerk of the Committee: Catering service is what you drink every morning. It costs about \$30 to \$40 every day for coffee, etc. When we are sitting twice a day it is double.

The Vice-Chairman: Any more questions on the budget?

Motion agreed to.

The Vice-Chairman: The chairman will present it to the board.

PREMATURE DISCLOSURE OF COMMITTEE REPORTS

The Vice-Chairman: The next item we have to deal with this morning is premature disclosure of committee reports. How do you want to handle this?

Mr. Cassidy: Was the Speaker going to come before us today?

The Vice-Chairman: Apparently the Speaker is not coming.

Mr. Epp: He will not come today or is not coming at all?

Mr. Cassidy: He is indisposed, or predisposed?

The Vice-Chairman: He is predisposed. It is not that he will not come.

Mr. Epp: You mean he does not want to come at all.

The Vice-Chairman: No, he will come.

Mr. Epp: So he may come next week, if we ask him?

The Vice-Chairman: Yes.

Interjection.

Clerk of the Committee: The other thing was there was some confusion last week, at least in the chairman's mind, about the Speaker wanting to discuss this subject here. I think the Speaker meant when he spoke to it in the House that he would like to be involved on a continuing basis in the discussions of this committee on procedures, so if he can be of some assistance to the committee when it is discussing various matters of procedure, he would be pleased to come and help us.

I have attended some meetings with Speakers across the country and the general opinion I think, shared by most of the Speakers, is that sitting in the chair, they perhaps have a viewpoint that most members do not have, and if they could be of assistance to the committees reviewing procedures, they would be most pleased to come in and help out.

Mr. Cassidy: I am uncomfortable with that because I think this committee is not a Speaker's committee, it is a committee of the House. We are there to provide recommendations back to the House as a whole.

What might make sense would be to suggest that the committee get together with the Speaker and talk about these questions, but not that we should feel we have to take advice from him on every question that comes before us.

Clerk of the Committee: No, I do not think that is what is meant. I think it is just that the Speaker or the Clerk of the House are the people who probably have more direct involvement than anyone else in the procedures of the House. Occasionally it

might be useful to consult with them to see what their opinions are in certain matters. Whether the committee accepts them or not is another matter; it is a kind of complicated process.

Mr. Cassidy: It might make sense, for example, if the committee sat down once or twice a year, maybe for lunch, with the Speaker and maybe with the clerk as well, to discuss the matters of concern. That kind of discussion does not often take place. Also perhaps to ventilate the matters of concern that the Speaker may have heard of indirectly, but does not get--

10:50 a.m.

Mr. Edighoffer: Last week we discussed this. We had this letter from Graham, with a copy of Hansard, and in the Hansard the Speaker said, "I would hope when it is taking that under consideration, and other changes which may be taken up, it will at some point would consult with the Speaker, and give him the opportunity to make some suggestions."

We have given him that opportunity, and he is not coming for this particular item, so let us go ahead.

Clerk of the Committee: There is no problem. He will be here. It is just a matter of (inaudible).

Does the committee want me to read this?

The Vice-Chairman: If it is your desire to; it is not very long. We prepared this as a result of our discussions last week in terms of--I remember in that discussion the difference between disclosure of reports and publicity of reports. It should not take very long. Why do you not read it?

Clerk of the Committee: Since December 1983 there have been three instances of the premature disclosure of committee reports. As a result of the disclosure of the recommendations contained in the report of the standing committee on social development on child abuse and in the report of the standing committee on resources development on workers' compensation, the Speaker referred the subject matter of premature disclosure of committee reports to the procedural affairs committee for its "very serious consideration."

The disclosure or publication of all or part of a committee report, prepared while the committee is sitting in camera, by any member of the committee or by any other person, may be found to be a breach of the privileges of the House and may constitute a contempt of Parliament.

In support of this principle, May states that "any publication of a draft report has been agreed to by the committee and presented to the House"--there is something missing in that sentence--"is treated as a breach of privilege." This is based on the ancient custom of Parliament that "no act done at any committee should be divulged before the same be reported to the House."

In a statement to the House on November 23, 1972, Speaker Reuter stated that: "The privilege in question is simply the right of the House to be informed first of matters relating to its business... This is a right which, on occasion, I have personally heard very vociferously defended on all sides of the House."

In an earlier statement on this subject matter, Speaker Reuter stated that: "It is perfectly clear, therefore, that the publication of the reports in question constitute a breach of privilege or contempt..."

"While it is true that this House has not seen fit to proceed against the offenders, at least for many years, breaches have been called to the attention of the House from time to time, for example, on February 1, 1967, by the chairman of the committee on ageing..."

"Whether or not anything further is required, of course, is up to the House itself, which may introduce any motion it sees fit in connection with what I believe to have been a breach of privilege or contempt..."

The House has the right to punish any person who, by his conduct, may have offended the privileges of the House. In this regard, individual members are of course as much subject to the rules and procedures of the House as any outside person.

The House possesses several means by which to deal with persons who have offended its privileges by prematurely disclosing the contents of a committee report. These include the power to imprison persons for specified periods, to reprimand or admonish persons, to suspend or expel a member from the service of the House, and to exclude persons--e.g., reporters--from the precincts of the House.

Where an employee of the Office of the Assembly or a civil servant has offended the privileges of the House, the House may recommend that such person be dismissed, suspended or reprimanded for misconduct including a breach of the oath of office and secrecy.

A review of similar cases in the Parliament at Westminster since 1831 indicates that the House of Commons has only on rare occasions taken any action involving the premature disclosure of committee reports.

In 1831, a publisher was committed to the custody of the Sergeant-at-Arms, but was subsequently released, permitted to express regret for his inadvertent breach of privilege, and then admonished and discharged.

In 1975, the House expressed its regret at the premature publication of an account of a draft report of the select committee on wealth tax, but it did not consider that any further action was called for.

In all other cases, the reports and recommendations of the various committees on privilege were merely ordered to lie upon

the table and no further action was taken by the House.

During my attachment at Westminster this past winter, there were two instances when the contents of the reports of select committees were published in newspapers prior to the presentation of the reports to the House. Complaints were voiced, but no action was taken to raise a question of privilege and have the matter referred to the committee on privilege.

In general, the Parliament at Westminster and, indeed, our own Legislature, has been reluctant to use its penal powers to stifle abuse of its privileges with respect to the premature disclosure of committee reports. None the less, a point may be reached at which such conduct ceases to be merely abuse and becomes an improper obstruction of the functions of the House. For such cases, however rare, the penal powers of the House should be preserved and the House must be prepared to exercise them. A clear statement to this effect may be required to be made.

Publicizing committee reports: The committee discussed a number of options for publicizing the work and recommendations contained in the report of a committee studying a particular subject matter.

In cases where committees meet in public to hear evidence and to deliberate on their reports, the proceedings would be a matter of public record. The threat of a leak would not arise and the custom that "no act done at any committee should be divulged before the same be reported to the House" would not usually be enforced.

In other cases, a committee wishing to publicize the recommendations contained in its report to the House may consider one or more of the following options.

The committee may rely exclusively on standing order 30 which provides that the chairman of the committee may make a brief statement on the committee's recommendations when presenting the report to the House. This option does not permit the chairman to discuss in detail the report and is clearly unsatisfactory if the purpose is to inform the House and the media in detail of the contents of the report.

The committee may wish to hold a press conference following the presentation of the report to the House. Some of our committees have followed this practice and have authorized the chairman and representatives of the various parties to conduct a press conference. Unfortunately, in at least one case, a committee itself technically breached the privileges of the House by holding a public press conference before the presentation of the report to the House.

In the Parliament at Westminster, I attended press conferences which were held by a representative group of members of the committee or by all of the members of the committee. In both cases, the chairman gave a brief summary of the committee's report and highlighted the important recommendations and answered questions from the press. Other members of the committee were then

given the opportunity to make statements and answer questions.

A practice which is followed at Westminster and which has not, apparently, been subject to abuse, is that of holding a press conference prior to the presentation of a committee's report to the House and imposing an embargo on the release of the contents of the report and on the comments made during the press conference until following the presentation of the report to the House.

Such a procedure ensures that the media have early access to the committee's recommendations in time for press deadlines and respects the custom that committee reports should not be released prior to presentation to the House. At Westminster, it is clearly understood by the media that the breach of an embargo on the release of the contents of a committee report is a serious matter and could result in the denial of admission to the precincts of the House to a reporter or journalist.

Another option available to committees is to issue a press release which highlights or summarizes the recommendations contained in the committee's report. Such a press release could be distributed with copies of the report when the report is presented to the House or when a press conference is held.

All persons who are involved in the writing, printing and dissemination of the recommendations of the report of a committee of the House should be made aware of the paramount right of the House to have the reports of its committees first presented in the House and of the options and penalties which the House has at its disposal to deal with offenders.

At the present time, it is the responsibility of the clerk of a committee to ensure that a committee determines the manner in which its report is to be presented to the House: that is, merely presented; presented with a request for consideration by the House; or presented with a motion for the adoption of the report.

The clerk of a committee could also be responsible for determining if a committee wished to hold a press conference, the type of press conference, the time of the conference, and if a press release was required for distribution. It would be the responsibility of the clerk of the committee to ensure that the committee's instructions in this respect were carried out.

The Vice-Chairman: As was stated earlier, we had considerable discussion over these two matters. The essence of the discussion is that the first one, which deals really with leaking of reports--has anybody any comments on what--

Mr. Epp: Mr. Chairman, in the final analysis, it depends on the committee's indulgence (inaudible) if the report is to be effectively made public depends on the posture of the committee at the time. I guess there has to be some way found to reprimand if you find that some member or someone leaks a report. There must be some way of reprimanding that member or that person who leaks that report.

I guess the problem in the past in the various

jurisdictions, including Westminster, is I presume they have had difficulty coming up with some way of reprimanding these people.

Clerk of the Committee: Also what happens is they have difficulty finding out who has leaked it.

Mr. Kells: The difficulty has been in catching the culprit--

Clerk of the Committee: There are cases where they have had journalists called before the bar of the House or before the committee on privileges and they just say, "I refuse to divulge the name of my source." So the committee has maybe admonished the reporter or has said, perhaps, they recommend that he should not be allowed to use the facilities of the House and he so loses his livelihood in that respect, but there is still no way of identifying.

11 a.m.

There was one instance I recall where they contacted all the staff of the committee and said the committee reports should not be released until they are presented and then, I guess, outlined the various options that are open.

Mr. Kells: Thou shalt not weasel.

Mr. Cassidy: That is where the system is weak. When we discussed the matter last week we determined that of all the possible sources of leaks, about 99 per cent of them were in the hands of members. Members who have an interest, have the motive, the opportunity and--is there a lawyer here?

Mr. Eichmanis: And few are sanctioned.

Mr. Cassidy: Yes, and few are sanctioned.

It seems to me it is implicit here, and it has to be made explicit, that in general, the problem appears to have been with members who, either advertently or inadvertently, through ignorance or through a desire for greater political advantage, or whatever, had sought to make the things available to the public or to the press before the reports were tabled.

I think it should be stated, when you get to the question of publication, that whatever the committee decides to do it is still open to members to do whatever they feel like, with respect to a report, once the report has been tabled.

Mr. Epp: What if a committee decides it is going to have a press conference in the morning and its report is going to be tabled in the afternoon? If the committee decides they are going to make it public, does anybody have any problems with that, making it public before it is tabled?

Mr. Kells: That is usually on agreement of the committee.

Mr. Epp: That is what I am saying, does anybody have any problems with that? I do not have any.

The Vice-Chairman: We had a discussion last week centred around whether or not the hearings had been public.

Mr. Cassidy: Mike Breaugh had a specific problem with that, saying that he, as a member of the House, would be expected to comment to the hometown press on something controversial in a report and, if the committee were to make recommendations public before they got to the House, that would put him, as a member, at a disadvantage, as opposed to being asked to comment after the matter had been tabled in the House.

Mr. Epp: I understand that, Michael, but that is presuming, of course, that, once the thing is tabled, everybody runs back to their offices and reads it right away so that when the press calls them they are very knowledgeable about it. I have never done that and I do not know anyone else who has done it.

So even if, say, the social development committee tables a report in the House, I am not immediately knowledgeable about it and waiting for a call from the press. I do not know whether Michael does that either.

The Vice-Chairman: According to the discussion last week, it depends on how the report was prepared. If the report was not prepared in camera--

Mr. Cassidy: It is a matter of public record anyway.

The Vice-Chairman: --it is really a matter of public record, and if somebody puts it together, and we agree, and the press comes out and says, "The chairman will be recommending to the House," blah-blah-blah, there are no surprises, it is all public information anyway. It is the ones that are prepared in camera, where you have some big decision that could affect the economic or social life of certain segments of our population that are important.

Mr. Cassidy: It may not pertain to every report coming from a committee of the House.

The Vice-Chairman: No, it would not. I see the problem here as affecting very few reports.

Mr. Cassidy: But we have had the problem and we had the problem, ironically enough, the day we discussed this last week.

Al Kolyn had, for various reasons, wound up publishing a press release prior to the release of the justice committee's report on the trust companies, and it actually got into the press. We were not able to take further action, but it was inadvertent, it was genuine that Al simply did not quite know what he was doing. We ran into a problem with that with respect to the justice committee, so it is an ongoing kind of thing.

Certainly that was very annoying because, in that case, the

NDP had been studiously holding back on our minority report until the report was tabled in the House and then we found out that the broad lines of the majority report were exposed to the press before we had the chance to get our point of view across.

The Vice-Chairman: I am going to try to summarize things here. It seems to me the premature disclosure of committee reports is tied to this overall subject we have been on the outskirts of, the confidentiality of things that come before any body. It is not necessarily what is in the report that is released; it might be something that is discussed in camera at a meeting and someone goes out and talks about it. It is that aspect of the breaking of some confidentiality, whether imagined or real.

The other part of this report deals with the actual press strategy and it is really the easiest one to deal with. I like what Mr. Epp is suggesting here, on publicizing committee reports. I agree with Mr. Epp, I do not see any problem. If a committee agrees on how it is going to publicize its report, so be it. Who are we to set rules?

If we or some other committee decide we are going to have a press conference on a certain report and put an embargo on it until it is released in the House, do we then have to go and check the rule book and see whether we can do that or not?

It seems to me that, if a committee decides it wants to release a report in a certain way--

Mr. Cassidy: Given that looking at the precedents one has to go back 153 years before one finds a parliament that took particular umbrage, what I would like to suggest is this: that the specific question raised by the member for Oshawa (Mr. Breaugh) be responded to in a slightly different way. In our recommendations we could suggest that since a committee can table its report with the clerk when the House is not in session and make it public at that time--is that correct, Smirle?

Clerk of the Committee: They have to be given that special authority. It is not a standard authority.

Mr. Cassidy: None the less, that is something which--

Clerk of the Committee: It has been given in the past, yes.

Mr. Cassidy: It has been given in the past. I would see no problem--if, for example, the committee decided they wanted to have a press conference--in suggesting and putting in here that they attempt to do that at the time they are tabling the report in the Legislature, but if it is going to be done in advance or on a different day, then the report be filed with the clerk and also that copies be made available to the members at the same time, so the members at least have physical access to the report at the time the committee is making it public.

That, it seems to me, would respond to Mr. Breaugh's

problem. It would mean that his privileges would in that sense be protected.

The Vice-Chairman: That involves a judgement call as to of what reports should enough copies be made.

Mr. Epp: I think Michael is raising a good point though. If the media is going to have access to information by having a press conference to elaborate on the recommendations and so forth, the least they can do is make those copies available to each of the members of the Legislature. I have no doubts about that. I think that is a good suggestion.

Mr. Cassidy: If it is important enough to give to the media, it is surely important enough to give to the members.

Mr. Epp: It overcomes Mike Breaugh's point that if the media does call, then at least he has access to that information.

Mr. Cassidy: It does not overcome it. It still steers around the business about May that has been quoted in Smirle's memo here: "No act done at any committee shall be divulged before the same be reported to the House."

Really, what one is doing is redefining the question of reporting to the House in line with, to some extent, the requirements of the news media today.

The Vice-Chairman: The press is one thing. We tend to think in terms of controversial matters, really. That is how we tend to think of this. As a member of the committee, I really do not want to set up some rules that are going to hinder reports where you have a noncontroversial subject.

Mr. Cassidy: Where you have a noncontroversial matter, the report may well have been drafted in public. If not, it will be reported in the normal way. If it is noncontroversial, it is probably non-news as well.

The Vice-Chairman: I can visualize this committee, or some other committee, actually--I do not know whether you would say releasing a report, but having a press conference to conclude their discussions with a group or something of that nature, saying, "Our recommendations going to the House will be..." and if the committee wants to make those kinds of things public, are we going to censure them for it? Are we going to say they cannot do it?

If a group of people came in here, we had some discussions with them and we had a press conference this morning and we said, "Our recommendation to the House and our report is going to be--"

Mr. Epp: You see, an important consideration here is, if a committee can decide whether they have their hearings in public and their discussion in public or they have their hearings and discussion in camera, then obviously they should be able to decide how they are going to make their report public.

How can you say, for instance, that the committee can have all their discussions and everything in public and make their recommendations in public and then follow that through by saying, "You cannot have a press conference before you table it in the House"? It is not consistent at all.

The Vice-Chairman: It is ridiculous.

Mr. Epp: In order to be consistent you have to say the committee decides--I am not talking about one individual; I am talking about the committee itself. If the committee decides to have its hearings in camera and then make it public before it is tabled in the House--

The Vice-Chairman: I cannot see the House questioning that. An individual might.

Mr. Cassidy: --reflect some of this then and say a question which has been referred to the House is really irrelevant only in cases where the hearings or the consideration of a draft report have been carried out in camera. If these matters have all been done in public, there is no question because the committee's work is already on the record.

Clerk of the Committee: We have the precedent here that, when committees met during the minority government days, when committees met in public and discussed their reports in public, no objection was taken. There was tacit agreement. The House did not attempt to enforce that principle that was stated in May.

11:10 a.m.

Mr. Cassidy: It seems to me that all we can do with respect to handling the in-camera report is to--there are a number of suggestions here on gaining publicity, or how to release it to the press, but I think maybe we want a couple of guidelines on what the spirit of the rules would seem to indicate with respect to making public committee reports that we have prepared in camera. That would be usefully added to what is in here now.

Mr. Eichmanis: I am not sure if I am right, but was not Mr. Epp's suggestion the principle--on reports made in public, they can be released immediately; there is no problem with that. I had the impression he was suggesting that that principle should also be applied to reports made in camera. Although you have had a report that was discussed in camera, if the committee agreed to release it prior to its going to the House, that was all right as long as the committee agreed.

Maybe I got that wrong.

Mr. Cassidy: That is part of it. One of the principles should be that effectively a committee can decide to do what it will; there is not a hell of a lot of control of it. To some extent you are really talking about the collegial rules that would apply where a committee has done some of its work in camera.

Mr. Eichmanis: Although technically, from what I

understand, that would be a breach of privilege. If you made recommendations in camera and then released those recommendations prior to that report being tabled in the House, that would technically be a breach of privilege, although the committee agreed that this is what it wanted to do.

Clerk of the Committee: First, you have to have someone raise the matter in the House. Then you have to have the Speaker find a prima face case of breach of privilege. The House then has to agree to refer it to a committee or deal with itself, so there are all these steps in between. Then the House--

Mr. Cassidy: But the committee itself, our committee, could say that while traditionally this might have been considered a breach of privilege, where there is agreement between the representatives of the three parties, this is the most appropriate way to deal with the committee report prepared in camera and it is hard for this committee to see how any real case of a breach of privilege exists. That is the kind of language you would want to put in, is it not?

The Vice-Chairman: I do not know whether you call this natural justice or what, but we work on that principle whether we are here or where we are. You can do anything as long as someone someplace does not object. I do not care whether you take it to as simple an issue as speeding down Highway 401--

Mr. Cassidy: Sure.

The Vice-Chairman: --you can do anything until somebody objects.

Mr. Cassidy: What got me upset last week was to pick up the Toronto Sun and find buried there a story about a committee. Sure, I was proud of the fact that I had been steadfastly resisting the blandishments of the Globe and Mail, which had been trying to get an advance copy of the report. I had taken the high road and then, lo and behold, found someone else had taken the other route.

Clerk of the Committee: The thing is it goes back to the question that committees are creatures of the House, just like subcommittees are creatures of the full committee. As such, the House has always demanded the right to be given the information first.

I think it goes back to your concern that if some means can be found to ensure that all members are provided with copies and are informed, as long as the House is informed--

Mr. Cassidy: I think the recommendation should be there that if a committee chooses, for whatever reason, to make an in-camera report public prior to its being tabled in the House, then we would recommend that appropriate arrangements be made to ensure that all members of the House are informed of the recommendations at the same time.

Mr. Edighoffer: I think we can get this thing too darn complicated. I am a great believer that if the House asks a committee to do something, that committee should deal with it and report to the House; it is as simple as that.

However, there are many times when questions come before the House about committee and the Speaker always says, "It is entirely up to the committee to make that decision."

I really feel that if a committee is asked to do something and they do it in camera--it comes to a decision on a report in camera--it should automatically go back to the House without comment outside of the House; the report should be made to the House. The only exception would be if, after they made their report in camera--the completed report--it went back into committee and they decided as a committee what they wanted to do, and it was on record what they would do. I think that would really simplify it.

Mr. Cassidy: I think that what is being said as well is that the committee, by agreement, can decide many things. There are many ways of handling the matter.

What you are saying is that if there has been no such decision by the committee, then it would be expected that it would be tabled first in the House.

Mr. Edighoffer: It would go to the House, yes. Automatically.

Mr. Cassidy: I do not disagree with that.

Clerk of the Committee: There would have to be a positive step taken by the committee to--

Mr. Edighoffer: There would have to be a positive step so that if someone got up in the House and said, "This was released before," they could go right back to the Hansard.

The Vice-Chairman: They could go right back to the committee Hansard and say, "Your people on that committee agreed that we were going to have a press conference that morning."

Mr. Cassidy: Sure. Smirle's report here also says that it is not normal for the clerk of a committee to ask whether a report will be tabled in the House or whether it will be moved for adoption or whatever and suggests that, likewise, the clerk should, in fact, have a slightly longer checklist basically asking, "How do you want this distributed to the members? Do you want to make any special arrangements with respect to the press?"

Therefore, the committee will have that decision put before it to say, "No, we do not want to; we do not want to bother," or, "Yes, we want to try something specific."

The Vice-Chairman: I am with Mr. Edighoffer here. I think the procedure is established and we only would make exceptions when we make a positive move to change that procedure.

What we do with the report, as to how we report, we have to make a decision one way or another way.

Mr. Cassidy: Yes.

Mr. Edighoffer: Any report that was completed in camera would automatically go back to the House and that would be the first official release of it, unless the committee decided on it by motion.

Mr. Cassidy: That is right.

The Vice-Chairman: We do not have to make that decision. Mr. Cassidy is saying that, should the question come up, how are we going to do it?

If somebody wants to bring it up, okay, that is fine, but it is not one of the things that has to be brought up at any time. It is an accepted practice and, if you want to change that practice, you have to do it by motion.

Mr. Cassidy: I think we should we go on and say the committee's view is that the clerk of the committee at the time the report has been completed should check with the committee as to how it wishes to have the matter reported back to the House--I am not sure what words should be there--just as now the clerk asks whether the report will be tabled or moved for adoption.

The Vice-Chairman: No. I should not be taking part in the discussion. I do not agree with you that as to how that report is put back to the House now requires a decision. It can go one way or it can go another way.

It requires a decision; the clerk has to bring that up. But in the publicity all I am saying is that if you are going to do something out of the ordinary it is going to require a special motion. Otherwise, the matter is accepted. He does not have to bring it up.

I do not think it is in the same category. He may want to and you may want to, fine, but I do not think it is in the same category that it should be brought up every time.

Mr. Eichmanis: This was raised last week. The problem is the situation where if the clerk does not raise this matter in some way, there is a possibility that members or the chairman may go off and do this on their own, not knowing perhaps what the normal practice is.

The idea of having the clerk perhaps raise this at the end of the discussions on recommendations is not to lead the committee or whatever, but so if the committee wants to proceed that way, to go the publicity route, then each committee does it the same way. It is not done--out of ignorance or inadvertence or for whatever reasons--in a way that is inappropriate or is technically a breach of the privileges of the House.

If the clerk raises these matters and outlines what the

options are, there is some kind of insurance perhaps that all committees will be consistent in how they deal with those procedures. I think the chairman was suggesting perhaps that the clerk would sort of lead the committee in the way they should go. Maybe that is a possible interpretation.

The Vice-Chairman: We are kind of spinning our wheels here.

11:20 a.m.

Mr. Cassidy: No, we are not. That is an unwarranted intrusion by the chair.

The Vice-Chairman: I am sorry, that is my observation.

Mr. Cassidy: We are not going to decide it now, but I wanted to speak to it. I would simply say, for people to think about it, that it would seem to me that we are not asking a great deal. It would make the job easier for the clerks of the committees if they knew that the accepted procedure is (a) that, unless decided otherwise, the thing would go to the House and be reported there, and (b) that it is their responsibility to check with the committee, to ask whether the committee wishes for any special or alternative arrangements to be made.

Therefore, the question does get put and no member can say, "The committee was not going to do anything with this, so I decided otherwise," because they will, in fact, have had the question put to them, "Do you want to do something else?" They either said yea or they said nay.

Mr. Edighoffer: What does a committee do now when they are meeting in the summer and their report is finished when the House is not sitting? Do they just table it with the clerk?

Clerk of the Committee: No. They can if they have permission to do it, but it has to be put in their terms of reference. We had some of those during minority days and the first session of this parliament, but we have not had any since.

In that case they would have to wait until the House returned to present their report, and then you can have a problem with a committee that does not exist any more. If it is over the summer recess it exists, but if it is over the winter, the House is prorogued and you have a question of whether it exists or does not exist.

Mr. Edighoffer: So, say a committee completed a report in the summer months. Can they decide themselves to present it to the clerk and hold a press conference?

Clerk of the Committee: There is no authority for the clerk to appear at a press conference.

The Vice-Chairman: If they went public, as in Mr. Epp's point of view, and they said, "These are the recommendations we

are going to table," if they agreed to do that as a committee, who is going to--

Say the social development committee is meeting in Dryden at some Indian reserve, as they have done, they have an issue there and they meet, they even decide to go into camera and they say, "These are the options and this is the one we are going to select," then they have a public meeting and they say, "When we go back to the Legislature this is what we are going to recommend."

It is part of the report, but it is what they are going to recommend. If, as a committee, they do it in public, who is going to object?

If you do it in camera and then someone leaks that, that gets back to the first section here and that is a different kettle of fish to publicizing the report.

Mr. Cassidy: Mr. Chairman, we may be spinning our wheels now, to use your phrase. I just want to make a suggestion.

There have been half a dozen ideas and suggestions made here which might be subject to some additions by Smirle. Could Smirle possibly just simply jot down words that might incorporate each of those suggestions, not in this draft but separately, so that we could look at the various options? Then we could simply leave the matter over until we have heard from the Speaker and had a chance to--

The Vice-Chairman: Do you want to receive this report pending the appearance of the Speaker?

Mr. Cassidy: Yes, that is right.

Clerk of the Committee: And you would just like to have a list of the various options we have discussed today?

Mr. Cassidy: Yes.

The Vice-Chairman: Is that an acceptable procedure so we do not leave everything dangling? The clerk will prepare an appendix, is that what you want to call it?

Mr. Cassidy: Yes.

The Vice-Chairman: And we will receive this report, pending the appearance of the Speaker before the committee to further discuss the matter. Shall we leave it there?

Mr. Cassidy: Yes.

The Vice-Chairman: Is there anything else for this committee this morning?

If this is the only matter for next week, can we leave it to the clerk to see if the Speaker can appear? If the Speaker can appear, we will have a meeting to discuss this; if he cannot

appear, there will be no meeting. It will be left to the call of the chair.

Agreed?

Mr. Cassidy: Thank you, Mr. Chairman. The other committee I was planning to sit on is coming to the business with which I am concerned in about five minutes. So--

The Vice-Chairman: We spun our wheels long enough so you were able to--

Mr. Cassidy: Just right. Not too little; not too much.

The committee adjourned at 11:24 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

PREMATURE DISCLOSURE OF COMMITTEE REPORTS
REFERRING SUBJECTS TO COMMITTEES

THURSDAY, MAY **31**, 1984



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Cassidy, M. (Ottawa Centre NDP)
Cureatz, S. L., (Durham East PC)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Kells, M. C. (Humber PC)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Also taking part:

Turner, Hon. J. M., Speaker (Peterborough PC)

Clerk: Forsyth, S.

Staff: Eichmanis, J., Researcher, Legislative Library

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, May 31, 1984

The committee met at 10:15 a.m. in room 228.

PREMATURE DISCLOSURE OF COMMITTEE REPORTS

Mr. Chairman: Gentlemen, seeing a thin quorum in place, perhaps we should commence with an agenda.

The first item on the agenda is the premature disclosure of committee reports. We have with us this morning Mr. Speaker Turner to give us the benefit of his advice and thoughts on this subject. Perhaps we will deal with that first. I believe Hansard is taking this down.

Mr. Speaker, would you like to come closer to us, near a microphone?

Does everyone have an option sheet in front of him--several options under premature disclosure and publicity? I think, Mr. Speaker, that you have a copy of several options that have been slightly discussed.

Mr. Speaker, would you carry on and give us some thoughts? As you know, there have been three fairly recent examples of the leaking of reports, and you might give us some of your thoughts. I know, from Mr. Breaugh bringing it up in the House, that you did ask that this matter be considered by this committee. Perhaps you have some thoughts on the matter.

Mr. Speaker: That is why I referred it to the committee, Mr. Chairman--so you people could solve the problem.

However, recognizing the problem as being a problem at all levels of government, it strikes me that it is going to be very difficult to formalize a procedure that will guarantee the behaviour of members of a committee and others.

I have always thought, and this might sound just a little bit naïve, that, in order to make something like this work, you have to have an agreement and the respect of all the individual members of the committee to agree to do or not to do whatever.

I know that sounds, as I say, like a very difficult thing. You can put all kinds of sanctions in place, and I, at various levels, have yet to see how you can formalize it to the point where you are going to have it written in such language that it is enforceable or that people will adhere to it. It is a matter of courtesy or respect from the individual members. It is as simple as that.

Mr. Chairman: Mr. Speaker, when you mentioned an agreement, first, are you thinking of each committee having an

agreement regarding each matter that it is dealing with, each report that it is preparing? If you are really thinking of leaving that until almost the end, almost the final report stage, it may be leaked before that time.

Mr. Speaker: That is right.

Mr. Chairman: Are you thinking of this agreement being at the beginning of each discussion on reports? In that way, the committee says: "On the last report, we agreed thus and so. On this report, we will agree in a different way, or this will be our procedure here." Are you thinking of that?

Mr. Speaker: Obviously, it would have to be done at the beginning because, whether you leak the report in dribs and drabs or as a total report, it does not matter much. The information is out in the public.

I think it could be looked upon, although I have never said this, as a breach of privilege--if not of the individual members, of Parliament itself. I have always said it was a matter of courtesy that the reports should come into the House before they are talked about in public. I think it is more than that, really, and yet it is something that is very difficult, if not impossible, to report.

I think, if you are going to deal with the matter, that you are going to have to have unanimous agreement from all the committee right from the very start. There is no sense in doing something here, and then going outside the door and talking to whomever, even giving an opinion. If they get enough opinions, the media can put the story together.

Mr. Chairman: We have two aspects to this. There is premature disclosure and then publicity. Also in the premature disclosure area is the question of how long a period of time committees should sit in camera.

It would be very easy to fall into the trap of going in camera for virtually anything that would have any controversy to it at all, so there is the question of how long a time a committee should stay in public and how long a time it should go in camera.

Mr. Speaker: That is difficult. If it is an open committee, the discussions are obviously going to be made public.

Mr. Chairman: What about publicity, and, in particular, what happens when a committee reaches a report when the House is not sitting? Do you have any thoughts as to how that should be handled?

Mr. Speaker: Yes, and I guess it would depend on the urgency of the report. However, I cannot really understand why you would accept certain standards in given circumstances and other standards in other circumstances.

I think the accepted practice has been, when the House is not sitting, to table a copy of the report in the clerk's office

or with the clerk or with the Speaker, at which point it becomes public, even though the members are obviously not going to know very much about it. They are going to be away from this place, some on vacation or travelling with committees.

It would seem to me that, if a committee is formed by the House to consider certain things and bring a report back into the House, it should follow those instructions and, I guess, recognize the fact that members have priority to the information contained in the report.

I would temper that with the urgency attached to it, but, speaking generally, I would follow the same procedure.

Mr. Chairman: On the question of publicity, we have about four options.

First, call it the most pristine, but simply nothing happens, absolutely, so far as publicity is concerned, until the report is presented to the House by the chairman. Then, following that, you have the press releases, the press conferences, or there is this concept of a lockup or embargo where the media is briefed, if you will, before the committee report is given, but the contents are not circulated, not published, until after the report is presented to the House.

What are your thoughts on this lockup or embargo?

Mr. Speaker: I like option number two, personally, because I think we must not overlook the fact that, while I think the members have a right to priority, the public also has a right to know as quickly as possible.

I would favour the option of having a press conference immediately after a report is presented in the House, and having the chairman and perhaps various members of the committee participating and just having a normal interview, a question and answer sort of thing, however the committee chose to handle it.

It would seem to me that we are dealing with two propositions here. One is the members' right to know and the second one, just as importantly, the public's right to know. I think they have to be followed--bang, bang--just as quickly as possible.

I do not particularly care for a lockup nor an embargo. I do not know how the media feel about it but it always seems to me--not degrading but that you are putting them in a position of being perhaps somewhat less than trustworthy. I would find that offensive if I were a member of the media.

My own choice would be option number two.

Mr. Breaugh: One of the problems we have with it is that we have always, since I have been here, been pretty casual about this kind of thing. It seems to me that, by and large, it has not been a bad approach because most of what committees do around here is entirely public or pretty well public.

The reason they might be in camera is that they are really just kicking around where they might go on a committee report and there really is not much sense in having Hansard record that kind of operation, so it has kind of degenerated into it.

The difficulty is that it is very easy then to kind of slip into the next step where you are going to forget that we are supposed to be meeting in public and we are supposed to be conducting the public's business in a very visible way.

One of the problems I have with it is I would like to find some mechanism of kind of sorting it out so the normal procedure would not change very much from what it is now. I think it is more an inconvenience when I have to read a committee report in the Globe and Mail in the morning or listen to it or read it in the Legislature in the afternoon, but I think there is a matter of good manners there. They are supposed to report to the House first, and they all get the information at the same time and go to it.

Is there a way to make that distinction, that every once in a while this committee and others have been into writing reports which are different to our normal type? I am thinking particularly of where we have done a couple of privilege cases in the committee where it would make a difference.

For example, in the one case I recall that we did here, we hired at great expense an outside legislative counsellor to give us legal advice and, if the counsellor's report had been leaked, it would have been directly opposite to what the committee's findings were, so it would have been rather embarrassing and misleading.

Is there a way to kind of identify a committee report which is held in confidence, and in strict confidence, until it is presented? Would that be a way to resolve part of this?

Mr. Speaker: Yes, it would be. I am just not sure what mechanism could be used.

Mr. Breaugh: I am really thinking that the committee would identify this as a report to which some special rule of confidence would apply.

Mr. Speaker: Unless you are in camera, I do not think you could rightfully expect to restrict the media from performing their jobs.

Mr. Breaugh: Yes, so you really have to devise some process whereby a whole lot of secrecy came into play.

Mr. Speaker: And then destroy the whole concept of the committee system. I feel very strongly, like yourself and I suppose others, that the public's business is public business and should be conducted as such.

I guess on the leaking of a report, what I find most offensive on a personal basis is not so much the leaking of the

report by the committee. I guess it is when an individual member--and whether it is here or in Ottawa or on a city council--tries to gain favour and support, either of the media or of his or her constituents, without the consent and knowledge of the other members. That bothers me to some degree.

Mr. Breaugh: I am not sure how we would deal with that.

Mr. Speaker: No, I am not either.

Mr. Breaugh: The real problem I have here, and I am not really an advocate of good manners most of the time, but it does strike me--

10:30 a.m.

Interjection: We noticed.

Mr. Breaugh: --it does strike me that, in this regard, common sense and good manners would keep us all out of hot water. The flip side of it is that, when someone does not follow that procedure, we appear to have no sanctions. We do not even say, "That was not a nice thing to do."

Mr. Speaker: When you stop to think about it, really there is not very much you can do. I think to start criticizing your colleagues on the committee just makes the matter a bit ridiculous. I do not think it is really only a question of good manners; I think it is a question of respect for the other members of the committee and courtesy, if you will.

I think, if any committee agrees to do something, all of us, as individuals, should look upon that as a committee decision, not as an individual decision, but try to see the whole picture rather than the individual pieces.

Mr. Breaugh: Do you have any thoughts about another area that we have discussed previously? Sometimes an individual member gets hold of a committee report or a document of some kind and decides, I guess in great conscience, that he must release the information. The rest of the committee says, "No, that is not the proper way to proceed and we do not want to do that," and he proceeds to release it anyway. We have had a couple of incidents like that that I can recall in recent years.

I have not found a good way to deal with that, quite frankly, because the difficulty would be if you say it is simply a matter of the committee voting and deciding, then, for practical purposes frankly, a political party like the current temporary government in Ontario could probably just sit on any report, on any documents they want, simply by going in to the committee and saying: "This is a confidential document here. It might embarrass the government and we do not want it released."

The opposition members might be looking at the same piece of paper and saying: "I have seen this, I cannot sit on it any more. It is my job to be here in opposition to the government and I must release it."

If we tighten up the rules to say that a simply majority vote of the committee can prevent that information from being released, it would give the government a tremendous advantage. I have not quite found a good way to resolve that problem, either.

Mr. Speaker: I do not know of any instance where that has happened. Do you?

Mr. Breaugh: Yes.

Mr. Speaker: Do you?

Mr. Breaugh: Yes.

Mr. Speaker: Without members commenting on it?

Mr. Breaugh: Yes.

Mr. Speaker: So obviously that is--

Mr. Breaugh: And I am not going to tell you who did it, either.

Mr. Speaker: Obviously that is done by agreement then, either among the House leaders or by whomever. I do not know. You are charged with the responsibility of considering something, producing a report and recording the report. If the report does not come into the House it is not a report, is it?

Mr. Breaugh: No, but it is information that a committee has had.

Mr. Speaker: Yes, and I guess it is up to the conscience of each individual member how he or she is going to use that. We do not have any firing squads here.

Most of you here have had municipal experience and there is the same problem at that level, even more so, as there is here. I know, in our particular case, we tried all kinds of things to avoid that happening, and we just found it impossible to deal with. We had to rely on the individual members living up to whatever commitment or decision they had made in the committee. That is difficult.

Mr. Breaugh: Just a final thing. I think we are moving to the position where we kind of write it all up just to remind people of how this is supposed to work and why it is supposed to work in that manner. Perhaps that will serve some purpose.

I guess the one remaining question is: will we give some consideration to a mechanism for disciplining, whether that might be a motion?

The problem is that, traditionally, you are kind of caught there. There are no reprimand motions that I know of. For the most part, you are either left alone or they throw you out. They do not throw you out too often. There is no 10-minute misconduct here.

Do you have any thoughts in that regard? Should that be somewhat more actively pursued?

Just to be personal for a moment, it does strike me that, on occasion, I have been embarrassed by the action of a colleague of mine that I thought was really quite wrong. He knew it was wrong, and he did it anyway. I was both embarrassed and frustrated that there was no sanction other than behind closed doors to tell him what you really thought.

It really struck me that there probably should have been some sanction--whether that is a motion that says you have been a bad boy, or something of that nature. The absence of a sanction of any kind meant that we got ourselves into very awkward circumstances.

I think the former member for High Park-Swansea is the most recent example of a member who did something which was thought to be a no-no. The Speaker gave an unusual ruling, which probably would have been fine with any other member of the Legislature, but when two strong-willed people meet, and there is no resolution to the problem, it does not go away. There is an air of awkwardness that existed--in that case, for, I think, about eight or nine months.

Mr. Speaker: I guess that, at this level more than the municipal level, perhaps, there is another body which is going to make a decision. If it is written up in the press--as it invariably is, with the notation that the information went beforehand--I think the public, the electorate, is really offended as well by that sort of behaviour. I guess perhaps that is the ultimate sanction.

I do not have any thoughts. I have thought about it many, many times, but I really do not see how you can invoke some kind of sanction against a member who deliberately and knowingly offends the rest of the members. They do it at their own peril, I would think.

Mr. Breaugh: In some jurisdictions, they do use a committee like a procedural committee. When someone thinks there has been an improper action by a member, they say, "You have to go off to a discipline committee, or a procedural committee, or whatever." At least, you have to sit there and explain yourself.

Mr. Speaker: Right.

Mr. Breaugh: It seems to me that this is not a bad move in some respects. If a member has good reason for doing what he did, he at least has a formal occasion to come in and state his case.

Everyone else can dump all over him--that will probably happen--but at least there is a bit of fairness there. The absence of that means that the only kind of accountability session happens outside in the scrum, which is not exactly a good form of judicial procedure in anybody's book.

Mr. Speaker: That is right. In some jurisdictions there are various committees which serve the same function, although they have different names. They have members, as you say, called before them to give explanations of why or why not certain things have or not been done.

That may not be a bad idea. When an individual member is called before a committee of all parties, it becomes a bit embarrassing, particularly with some of the comments and questions that follow, I would think. That is not going to stop it.

Mr. Breaugh: What I do not like, quite frankly, is that if someone wants to come in here and do whatever he or she wants--say whatever they want--you can throw someone out for an afternoon or, if it persists, for a slightly longer period of time. They do not have to come back in and say: "I am sorry. I did something wrong."

Mr. Speaker: That is right.

Mr. Breaugh: Or they do not have to go before a committee.

Mr. Speaker: No.

Mr. Breaugh: They do not even have to justify what they did. If they want to, they can just sit there and say: "I did it. You can throw me out for an afternoon. Big deal. I will watch the Blue Jays."

Mr. Speaker: It is supposed to be a kind of disgrace to have that happen.

Mr. Breaugh: But it turns out that, for practical purposes, it is not.

Mr. Speaker: No, that is quite true.

10:40 a.m.

Mr. Breaugh: Getting thrown out of the House ensures that you will at least be mentioned on the evening news. If you have a good cause, it is a good way to dramatize that cause back home. Or in the middle of the dispute, if you are losing the argument and you want to get noticed, you do something outrageous. That gets you thrown out and you can kind of leapfrog over the huddled masses there. We have a bit of a problem in that regard.

Mr. Rotenberg: Can I get a word in, because I have to go downstairs to a committee where I have to do some work? Can I make a comment or two on this before I go?

Mr. Chairman: Certainly.

Mr. Rotenberg: I am not nearly as concerned about this premature leaking of reports as some other people. Those who are on the committee have seen the report, those who are not on the committee do not see the report before it is tabled in the House

anyway. How many people actually get a copy of the report? It comes down to exactly what Mr. Speaker said. All honourable members are honourable members--we start with that premise.

If a committee agrees in advance that a matter is to be in camera and not to be released to the public before it is tabled in the House then all members are honour bound to stay with that agreement. I agree with Mr. Breaugh, you cannot by majority vote force a minority of the committee to keep something confidential, unless the people agree it is going to be confidential.

If a committee does not agree it is going to be confidential, then maybe you just do not proceed with the hearing. But once a committee or a group of members have agreed a matter is to be kept confidential until a certain point, then all honourable members are honour bound to keep that.

I agree with Mr. Speaker that a member who, in effect, breaks his word because he agreed to confidentiality and then did not keep the confidentiality, really is sanctioned by the public sanction and the fact that it is going to be mentioned in the House and in the press.

Mr. Breaugh mentioned the former member for High Park-Swansea. Part of the reason--maybe not the only reason--for his defeat was the fact of that whole kerfuffle where it was very obvious to the public that he was not playing the game according to the rules and that he was not an honourable member. That is one of the reasons for his defeat. I think the sanction was there.

I cannot see setting up a mechanism for spanking or for 10-minute misconducts or whatever. I just do not think it is going to work for, in effect, a person breaking confidentiality, in effect breaking his word. Whatever happens in a committee, the sanction is going to be the fact that it is made made public that that person broke confidentiality. The more mechanisms you set up to try to discipline that member, the worse it is going to get.

Frankly, what is all that confidential about some of these committee reports anyway? It is just the fact that every member of the House should get it at the same time. Most members of the House do not get them anyway. Many committee reports that appear in the House, I do not see until three or four days later, because that is when I get my mail, and it does not bother me a bit.

I really think most of this matter--I was going to say it is a tempest in a teapot, but it is a little more serious then that. As I say, committee procedures should be that only by agreement of all committee members is a matter kept confidential. If they agree to that, then every member is honour bound to keep that agreement. If he breaks the honour of the House and the code of honour, just the fact that he has broken it is going to be the sanction. I cannot see doing anything else.

Excuse me, I have to go downstairs.

Mr. Chairman: Are there any more questions for Mr. Speaker?

Mr. Epp: In essence, Mr. Speaker, what you are saying is that you prefer to leave well enough alone. It is up to each individual situation to work itself out, for members to use self-discipline. If we had more rules people would probably violate them and additional rules probably would not curtail any other actions we now have anyway.

Mr. Speaker: Mr. Chairman, it is like any other security measure, the more complicated you make it the worse it becomes. You keep getting yourself into a bigger problem rather than solving what may appear to be a relatively minor one in the overall context. In my opinion, I really do not think you can do too much other than rely on the integrity of your own members or of the committee.

Mr. Epp: I guess my other question would be that if there were some basic guidelines, at least when members overstep those basic guidelines, then there would be some measurement, something to go by which indicated that they had violated them, gone beyond what is generally accepted as rules as established by the House.

I guess what I am saying is it is hard to measure now. People have different standards, and at least all of us would be agreeing on some form of standards.

I accept what you say, that once you get more rules and regulations, I am just wondering if we had basic guidelines and people violated them, they would know and everyone would know that they had gone beyond what they should have.

Mr. Speaker: I suppose as an example, the final sanction of something very serious happening would be to have someone called before the bar. I am told that has only happened once in the light of this Parliament. Obviously, it is something that has not and is not and probably will not be used, even though it is there.

Just the fact that people know they will be called into some disrepute or suffer some embarrassment, or whatever, is probably the most effective way of handling it. We all have our own personal standards and some people might not pay any attention to those sorts of things, I do not know.

Mr. Edighoffer: At the last meeting we discussed this. I felt very strongly at the end of the discussion that it is not the type of matter that should have 50 or 100 rules set out, particularly on the publicizing of the report. I felt very strongly, and still do, that any report that comes to fruition through a committee, in camera, should stay that way.

I agree with what you have said on many occasions, that it is up to the committee to make its decision. I stated two weeks ago that, if the committee feels it wants to release the report prior to tabling it, it could do that on motion. In other words, the committee could go out of camera into committee and the committee could agree to release it.

Would you see any point of setting out such a simple rule as that in the standing orders under committees, or is the committee of chairmen still in operation?

Mr. Speaker: Not as such.

No, I think I spoke too quickly. I think the clerk does meet with the committee chairmen from time to time.

Mr. Edighoffer: I was just wondering whether something like this could be handled through such a committee--if all the chairmen knew what the set-out rules are, whether they could follow the example I just suggested.

I suppose there could be some other section added to the section in the standing orders referring to in-camera reports. It states very specifically that reports must be reported to the House, and then certain things take place. That is the only thing I would like to see changed.

Mr. Speaker: I think that sort of thing is accepted as practice established by precedent; I do not think there is any argument with that. Whether you would want to formalize it or not, I do not know. Once you go down that road, you start "improving" and it is a question of whether the improvements are that.

10:50 a.m.

I like your suggestion that it is something that could be talked about at that level, at the chairmen's meeting level. It does not really matter what the chairmen agree to, however; it is going to depend on the individual committees, under the guidance of the chairmen, of course.

Mr. Villeneuve: It is my opinion that the more rules and regulations we throw into these things, the more complicated things get. In the last month we have seen two honourable members removed from the Legislative Assembly. I used to think that it was a rather shameful thing to occur. As it turns out, it was what appeared to me to be almost a publicity gimmick, and that is certainly not the intent.

I think we are elected here to represent people. I know full well that, if something occurs and it is in camera, if it is in my riding and it would very adversely affect my riding, I may not reveal it, publicly, privately or otherwise. Somehow, however, these things seem to find their way out.

At that point, who is responsible? The elected member would probably want to, at some point, take a little bit of credit for having warned the people. It is my humble opinion that the more rules and regulations we put into these things, the more difficult they become to administer and the more they are used.

Mr. Edighoffer: Do you mean by this that you are in agreement with any committee member being able to make comments if it is in camera?

Mr. Villeneuve: I think our oath of office says that, if it is in camera, it should stay that way. The problem is that things do seep out. They find their way out. As to the actual way of pinpointing it, I do not know how you would do it, how you would prove it and how you would punish it. It could be that, if you end up punishing it, you end up glorifying it.

Mr. Watson: I will be the devil's advocate, because we have been through this on several reports and we have picked examples. If we were in a committee report, and we were recommending in camera that the milk quotas in your area be cut by 50 per cent, would you sit there and keep that in camera? I mean, it depends on whose ox is getting gored.

Mr. Speaker: That is right.

Mr. Watson: I am not the only one who has brought up examples, but I am prepared to visualize those kinds of examples. A committee might come up with a recommendation--and I guess if you, with the cheese and milk farmers, saw something that would affect a lot of your constituents, you would have very strong feelings about it. You would look very favourably on protecting your constituents, rather than protecting the in-camera sessions of a committee.

Mr. Villeneuve: It would be very difficult to keep that under your hat, would it not?

Mr. Speaker: Especially when your constituents ask you what you are going to do.

Mr. Watson: I tend to agree that, yes, things of that nature should be in camera. However, when you get into matters of substance, each one tends to be unique. I guess there is a great hope that a system be established, and that the system is now established.

It is something like the expression, "If it ain't broke, don't fix it." I am not so sure it is broke. I am not so sure that one or two spokes going out of the wheel have really broken the present system we have.

I am not for lining up a lot of rules and regulations to try to tighten up the spokes that somebody will find a way of breaking if it really becomes a big enough issue.

Mr. Breaugh: I am still one who finds it very annoying to read in the morning paper the contents of a committee report that is going to be presented this afternoon. I find it more than annoying when I get calls from my local radio station and newspaper, and they ask me about a report I have never seen.

Interjection: That is embarrassing.

Mr. Breaugh: You may say that this is just poor manners on someone's part, but I think it is more than poor manners. I guess what I object to is that, in my opinion, this is not done by accident. People around here have now adopted the practice of

putting into the Globe and Mail in the morning something that will be tabled this afternoon.

That is not because the Globe and Mail, or any other newspaper, is going around working its way through wastepaper baskets. That is because the chairmen of committees or principal spokespersons for the parties are releasing that material. I think that is wrong.

I am not content to sit around and say, "It may be wrong but we are going to live with it." At the very least, we have to point out that is not the way to proceed and that practice should stop. If you are not prepared to invoke any sanctions, I suppose I do not have any choice on that. But I am not going to stay quiet on that. It is the wrong way to proceed.

Maybe in situations now it is inconvenient, not courteous or whatever, but sooner or later it is a very short walk to get you where the government is going to be in an awkward position because of the premature release of reports. It seems to me that all members are going to be in a very awkward position, and not just inconvenienced.

Mr. Watson: Okay. My comments were a little bit out of order because I was thinking more of information leaking out in caucus or in-camera studies. The situation I am referring to is probably going to come from an in-camera session rather than wait for a week or two until the day it is ready to go out, although it could happen there.

Mr. Breaugh: Andy, if I could draw my line, I agree that we are not going to be able to do anything about an individual member of the committee who talks to somebody. We are never going to stop that. But it is at the point now where the committee itself, the chairman of a committee, who I think has a kind of special responsibility, thinks it is okay to let a report go. It will be gone this afternoon anyway, he thinks, so he releases it in the morning.

I do not think you can stop a member of a committee from talking to a reporter, but they are not just talking to reporters anymore. They are saying, "Here is a copy of what the committee is going to release tomorrow." That is just a little bit too much for me.

Mr. Watson: I agree.

Mr. Chairman: Okay. If we are not going to put in place sanctions, is it reasonable to suggest, as the British people have, that at least it be designated as "unethical" to release a report before it is presented to the House. At least that way that term can be attached to a particular member who does so. He will have acted in an unethical fashion and there is a certain sanction in that--certainly there is among lawyers and doctors, if you want to use the word "unethical."

Mr. Speaker: Mr. Chairman, I guess part of the problem

is--and maybe I should not say this--to a large degree all of us, committees or whatever, tend to follow examples.

As Mr. Breaugh says, the situation certainly has changed greatly from the time I first came here. I do not say this in any critical sense, but I think it is factual that some of the ministers have chosen this practice of releasing whatever information they may want to release. I think it necessarily follows that, if that is the accepted route, then it goes down through the system on a monkey-see, money-do sort of attitude.

11 a.m.

If you can attach something to it that brings a sense of shame perhaps, to the people who do that sort of thing, I am not sure what else you can do. I understand what you are saying, and it is a serious problem. I have been through the same thing on committee, and there is nothing more embarrassing.

Keep in mind that in a smaller community we have a much closer relationship with everyone. You get a reporter calling, you get the radio station calling. You admit you know nothing about it. You can buy the morning copy of the Globe and Mail. It makes a very difficult situation to deal with right through the whole system.

Mr. Chairman: Good. Are there any others question of Mr. Speaker?

Mr. Epp: Just one question. What would be wrong with clearly delineating our position with respect to the premature release of these reports or statements? The other thing would be the option of this committee to invite that person--if we can pinpoint who said or released it--to the committee to give some explanation of why it was done.

Mr. Chairman: I do not think that is within our mandate.

Mr. Breaugh: I think that is pretty much what would happen if, for example, a major problem erupted because someone released a report prematurely, and the Speaker felt it was a breach of privilege of all the members.

I would think one of his options, to think about at least, would be to say: "I do not know all the circumstances of that, but it is serious enough that some committee of the Legislature ought to look at that. I am going to refer that matter to procedural affairs."

Mr. Chairman: Well, then you would have the mandate.

Mr. Breaugh: Yes. I think this is one of the options that the Speaker would have. It has been used here before. It seems to me that we do not need to rewrite any rules, but we should make members aware that that could happen.

Mr. Epp: That is about as far as I would be prepared to go, and as far as we could go on it. If that were a clear option

we had, it might curtail some of this premature releasing of information.

You would have no objection to that, would you, Mr. Speaker?

Mr. Speaker: It is already there. I am not sure--I would like to look at this and get some advice on it--whether I have the jurisdiction and authority. I can obviously refer matters to the committee. I am not sure that I can refer a person to a committee to give an explanation.

Mr. Chairman: Under the standing orders of privilege, if someone makes a motion to you, then the House can have--

Mr. Speaker: That is right.

Mr. Chairman: If it is in the motion that that person pay a visit to the procedural affairs committee, then that is fine. It is the House speaking.

Mr. Speaker: It would be the House itself that would make that decision, right.

Mr. Breagh: Frankly, I do not see a consensus to do any more than that. One of the problems here is that people are not aware. I often think that a lot of what happens here is because members have never read standing orders and do not bother with precedent or practices or any of that. They just look for whatever advantage there might be in other terms.

Perhaps, when we do a report on this, the greatest service we might do is to point out to people that this is the way it should be done. If you do not do it that way, there are some sanctions available.

Mr. Chairman: Okay, is that it? Thank you, Mr. Speaker.

Mr. Speaker: Thank you, Mr. Chairman.

Mr. Chairman: Thank you for coming before us.

Mr. Speaker: It has been a pleasure doing business with you.

Mr. Chairman: We will see where we go from here.

Mr. Speaker: Good luck.

Mr. Chairman: Thank you.

Mr. Breagh: Whatever we vote will be on his conscience.

Mr. Edighoffer: I should inform you, Mr. Speaker, that most members are really honest around here. We found that out yesterday on the golf course.

Mr. Speaker: There was never any doubt in my mind. I understand everybody won a prize. See you later.

Mr. Chairman: All right, gentlemen. There are a couple of things here.

We are discussing the premature disclosure of committee reports, and we are on Hansard. We have the finishing up of the committee's draft report to the House. We may wish to stay on Hansard for the final wrapups or to go in camera.

However, we then have a discussion of a couple of things that we may wish to do in camera. Those are the committee's 1984-85 budget, as well as two upcoming agencies, boards or commissions. I suspect, then, that we will want to go in camera. What do you want to do?

Mr. Breaugh: Can we deal with premature disclosure first?

Mr. Chairman: Okay.

Mr. Breaugh: It strikes me that we have sufficient material here to constitute a draft report. I would like to see the British material incorporated there. It is a kind of frame of reference to people.

When you are going through the options, it seems to me that the first listing really outlines what should be done now. It is not always followed, but should be, and those recommendations should simply be reinforced.

The only things perplexing me, frankly, are the options around publicity. What we should be saying there is that the recommended route is that the report gets presented to the House first and then a committee may want to make itself available for a briefing to the media people or whatever.

I am not enamoured of the lockup idea, quite frankly. I just reminded myself, going through the budget lockup provides one side of an argument with a tremendous opportunity all day long to fill the media with information, which may or may not be accurate. They, of course, then write it up on that basis. There is some unfairness in encouraging committees to use that process a lot.

If, for example, a committee was dealing with something like family violence, I suppose we could make the argument that there is a need to provide media people who will be doing stories on that with a lot of background information. It seems to me you can do that just as well after you have presented the report. The need to provide a whole lot of background information prior to the presentation of a report is a pretty rare occurrence for a committee. I am just not sure that we should be encouraging that.

Mr. Chairman: So mechanically, what are you suggesting we do at this point?

Mr. Breaugh: In front of us this morning we have two discussion papers. We have the draft of the report on premature disclosure, and on the front page of the one that is entitled Premature Disclosure Committee Report, we basically have an

outline of what should be happening with a couple of notations that might be made.

For example, in item 4 it says that "when a committee considers a report in camera, the clerk of the committee should retrieve all draft copies of the report at the end of the meeting." I am not particularly concerned about that. I do not know whether it is necessary.

If, for example, you wanted to take one home and work on the wording of the draft report, how can you do that if the clerk picks them all up? I am not sure that that has to be brought in. Can it not be changed to say that the clerk of the committee "may"?

I can think of occasions, for example, when as part of a report we had papers or materials that were confidential in nature. Then I would say yes. On a couple of cases I have sat on committees where it seemed to make some sense that we did not have that kind of paper floating around. The clerk of the committee would pick it up at the end of the meeting. As a general rule, however, I do not think that is required at all.

Mr. Watson: Why do you not think so? I think that is an individual--

Mr. Breaugh: Yes, there will be times when that is a sensible thing to do, but there are other times, for example, when we do our agency reports, that--

Mr. Watson: I do not recall ever seeing one where it happened. If we are doing a report on the rules, like we did, we may have been sitting in camera going over options to what the rule changes are. If someone wants to take a copy of those and work them up, that is not the kind of issue. Why would the clerk want to retrieve all those?

Mr. Chairman: Also you have the practical problem of members coming and going. They leave half an hour early and they take the papers with them. The clerks would not be able to police it.

Mr. Breaugh: I think that puts an obligation on the clerk that is not good.

Mr. Chairman: He would have to stand by the door and almost body search everyone who came in and went out.

Mr. Watson: I would take that one out altogether.

Mr. Breaugh: There is one other matter that I think should get a mention. I am not convinced that these are actually recommendations but rather just an outline of what should happen.

I think we should make it clear here that it is fair game for other members of the Legislature to see this information. For example, on a number of occasions I thought it was suitable to go to our critic in a particular field and say: "We have this group before the procedural affairs committee. We are reviewing whether

that agency works or not. What is your opinion of what happens there? Give me some kind of guidance as to what kind of questions we should be asking them."

11:10 a.m.

Somewhere in there we need a small statement to clarify the right of other members to be participants. For example, they could come--and we have wrestled with this on a few occasions--and sit during the course of a hearing. We have never had anyone come and sit in when we were drafting the recommendations.

In a sense, I am sure we all talk to them and ask: "Did we ask the right questions? Did we miss a point there?"--something like that. So, in a sense, we are sharing that information.

I have found that other members have come to me, for example, in their dealings with reports or drafting reports, asking: "Procedurally, how should we go about this? We want to make this point; how do we do it?"

I think we should have something there which clarifies that other members do have a right, in some limited way, to participate in that.

Mr. Chairman: How about the idea, that I threw out before, of designating it as unethical to disclose? The British have that. They simply put that tag on. If you disclose, it is unethical. It is in the British--

Mr. Eichmanis: It is point 4.

Mr. Chairman: At least, it seems to me that there is a certain sanction there. If the hometown newspaper says that the member has acted unethically--just the word itself--there is a certain sanction right there by the use of that word.

Mr. Breaugh: One of the things I would like to see is this whole document included in our report as a kind of reference point, if that is possible.

Mr. Chairman: Oh.

Clerk of the Committee: As I said, this was not given, basically, for wide publication. It was given more for information purposes.

Mr. Breaugh: So you have violated your oath of office by disclosing this prematurely.

Clerk of the Committee: No.

Mr. Epp: This is what they have already adopted.

Clerk of the Committee: There is a committee in the British Parliament to help the liaison committee, which is a committee of all the chairmen. The chairman of that committee was presenting this to the committee of chairmen.

I would be very hesitant, however, to start--I think we can steal parts, but I would not want to steal the whole thing.

Mr. Breaugh: So you are for plagiarism, but not outright theft.

Clerk of the Committee: That is it.

Mr. Breaugh: Yes, I think you could reword that, and include that in this outline of things to do. A couple of things pop up. You were talking here about the press, the media in general.

Mr. Watson: Let me go back to that one for a minute. Are we dropping the idea of "privilege" rather than "unethical," or are they--

Mr. Chairman: I think it is the consensus that privilege is too tough to--I mean, someone can always bring up the question of privilege in the House. You can never stop that.

Mr. Watson: What I am saying is that--going over that report from England and sort of condensing it--you can follow on, if you want, with that idea, to say that the leaking or disclosing of a report will be considered unethical and may constitute a breach of privilege of other members of the Legislature.

Mr. Breaugh: I am generally in agreement that they ought to be flagged on that kind of basis.

Mr. Watson: I do not think we need to say "shall," but it "may." The ethical thing, really, is flagging it anyway, unless you are going to attach--

Mr. Breaugh: I would support the notion that the committee simply consider it unethical to release a committee report prior to it being presented in the House, and that we would consider that to be grounds for a point of privilege.

Mr. Watson: Or it "may"--

Mr. Breaugh: May be grounds.

Mr. Watson: May result in a breach of privilege.

Clerk of the Committee: In the paper I did for you on premature disclosure, I put in the paragraph that the disclosure of publication, while the document was prepared during an in camera sitting of the committee, "may be." That is for the House to decide, not for anyone else.

Mr. Breaugh: I think we always have to say it in those terms, because we do not know the circumstances under which any of these things might happen.

I think you have to kind of "red flag" it for people, to point out that the occasion could arise, and you could be in the position where the House says: "You have done something unethical

here, and it is a breach of privilege for all the members here. It is going to be referred to a committee."

This could get very formal. I am not convinced that very many members are even aware of that.

Clerk of the Committee: But it could be a case where it is a very serious breach.

Mr. Breaugh: Yes.

Clerk of the Committee: Or a very serious leak--with the Re-Mor committee, for instance, there was some potentially damaging information before the subcommittee. If someone had leaked some of that information, it could have been considered a very serious breach of privilege.

I think you always want to maintain the option of dealing with cases like that. With others, we may want to follow the British case where it is serious but not very serious, and would just want to admonish someone in their place in the House, or you may not want to do anything. That reserve power is always important.

Mr. Breaugh: Yes, that should simply be pointed out to people.

Mr. Chairman: Okay, so does Smirle Forsyth go away, and are we shooting down the lockup or embargo thing?

Mr. Breaugh: I do not think we should be encouraging it. I do not think there is anything to preclude the committee from doing that, but I certainly do not think we should recommend that as an option to be pursued.

Mr. Watson: If the committee wanted to do something at some time, for some special reason, then they could do what they want, but let us not point out that this is an option.

Mr. Chairman: Okay, we had better not. Okay, I think Smirle Forsyth has enough, unless there is something else anybody wants to add. He can work something up and come back with a draft report.

I guess the next item is finishing up the draft report.

Mr. Breaugh: I have one matter I would like to raise this morning. It is not related to any of this.

Mr. Chairman: On Hansard?

Mr. Breaugh: Yes.

Mr. Chairman: Okay. John?

Mr. Eichmanis: I hope this will be the final revision, and I hope you have the memorandum which indicates on what pages the revisions were made. On page 31 there is a rewording of

recommendation 15, which now reads, "the Game and Fish Hearing Board be given power to make a final decision, subject to an appeal to the Minister of Natural Resources." The option of terminating the board was taken out of that recommendation on the committee's recommendation.

Mr. Cassidy wanted a slight change on page 84, in the preamble to the 35th recommendation. It is the first sentence, and includes "for the same standard of service" at the end of that sentence, to ensure that that recommendation be consistent.

It now reads, "Following on this recommendation, the committee believes that where a standard flat rate has been established for those receiving social assistance, that same rate or cost should be available to the public for the same standard service." Mr. Cassidy was worried that without that phrase included, it may be somewhat ambiguous.

If the committee agrees, I assume there will be no more changes in the report. It should be final.

Mr. Chairman: All right. Two questions: first, is it simply going to be presented to the House for adoption, or is it going to be presented to the House for debate? It is usual to do adoption on these agencies, boards and commissions.

Herb Epp says for debate. Say a nod, Andy, debate or adoption?

Mr. Watson: I think there might be some other members who might object to having it adopted right off the bat.

Mr. Chairman: Okay.

Mr. Epp: They might have some difficulty with us, to make a report, and referring it here for adoption, it is adopted and not ever debated.

Mr. Chairman: At least give the House the opportunity to debate.

Mr. Epp: Sure.

Mr. Watson: Maybe I can clarify that. Maybe the clerk can clarify it for me. I suspect that when it is gone, then the groups will react anyway.

Clerk of the Committee: What happens is, as soon as the report is presented to the House, I send letters out to the ministers and the heads of the agencies, pointing out the comments of the committee and asking them for their comments.

11:20 a.m.

What we have had in the past is sometimes ministers have held off their responses until it is debated in the House. But for the last couple of sessions, there have not been many debates on

our reports, so that we have relied more or less on the responses from the ministries.

Mr. Watson: I think as long as that is out, then let us have the debate adjourned, because then the answers come back and somebody may come up with an agency that wants a point of view that is not presented. They may do it with any members of the committee or otherwise. So it does present an opportunity. If there is something in here that, all of a sudden, breaks loose with one of these then, you know, it will get put on for debate.

Mr. Chairman: So it is for consideration, not adoption. It is for consideration of the House.

Mr. Breaugh: The normal process, as I recall it, is that you move that the report be adopted and then you return to the debate

Clerk of the Committee: That is what we have usually done. You can either do that or ask that the report be considered, in which case it is put on for consideration and discussed at some later point but not adopted by the House.

Mr. Watson: I do not think it makes any difference then.

Mr. Chairman: So we will put it on and then just move an adjournment of the debate and it can be brought back on and its adoption moved.

Mr. Epp: The House leaders have to appoint some time when it is going to be debated.

Mr. Chairman: Next thing, premature disclosure and publicity of this report. What is the committee going to agree to? Nothing until it is presented in the House?

Mr. Watson: I was just going to ask, "Who can I nominate to go to the lockup?"

Mr. Chairman: That is carried. Now, Mr. Breaugh, you have a matter you want to bring on.

REFERRING SUBJECTS TO COMMITTEES

Mr. Breaugh: I had a couple of requests from colleagues of mine to at least get on the agenda here the matter that, on a couple of occasions now, we have been unsuccessful at even getting an airing of in a committee.

A couple of recent ones pop to mind. One is what is known in our caucus as the Stan Gray affair. It is a matter that is before the courts and there is no argument about that. But it also has to do with occupational health and safety.

An attempt was made to raise the matter in the resources development committee and then, on the following morning, in the Legislature. Just to put the matter on the agenda, so to speak, it seems is impossible.

We would certainly concede that the committee has the right

to debate something and at the conclusion of that then say, "Well, we do not want to do anything more about this." But there ought to be at least a vehicle whereby the thing can be put on a committee's agenda and dealt with in a formal way. There appears not to be.

Last week--Tuesday--there were questions raised about estimates of the Ministry of Natural Resources where again the same problem occurred. There seems to be a slippage in there; you cannot even really present a matter before a committee and then subsequently it goes back to the Legislature and you cannot present it there because it is before a committee.

So there is kind of a catch 22 that has developed. We are not arguing that a minority can force a committee to deal with the matter. We are saying that we ought to have some technique whereby any member can get something to the stage where a committee must formally reject it. If you are having difficulty doing that in a committee, there should be some vehicle whereby you could do that in the Legislature.

For example, Mr. Rae was trying to make the point in the Legislature that he had tried before committee--or a member of his caucus had tried before committee--to present an item. There did not seem to be a way to present the item.

So, in some ways, what I would simply ask you to do is to pull the Hansards on those. Let us take a look at that and see if we can deal with the matter. It seems to me there is validity to the point that any member ought to be able to raise a matter before committee. One should at least be able to raise it.

Now the committee can decide subsequently they do not want to do anything more about it, but one should have a right to put the thing on the table. And, if there is a problem with that in the committee, there should be some mechanism whereby one can at least go in the Legislature. Maybe one has to serve notice on it or something like that. Or maybe one has to put it in the form of a motion. But one should be able to at least state an argument, and we appear unable to find the mechanism to do that.

Mr. Chairman: The mechanism right now in committee is that a member makes a motion. If it is within the mandate of that committee and that subject is in front of them, whether it be estimates or otherwise, there is a motion made. You have to have a motion on the floor for discussion.

You make the motion. I cannot see your problem if you make the motion.

Mr. Breaugh: The difficulty is that we have wanted to have a committee debate. Let us stay away from the specifics. We have wanted the occasion whereby any member could go before a committee and say, "I think this committee should look into this, this and this."

Mr. Chairman: Beyond its mandate?

Mr. Breaugh: No, but even if it turned out to be beyond its mandate, we would not be arguing that point. What we are saying is that any member should have the right to go before a committee and make a pitch that the committee should deal with a particular matter.

We should not be inhibited by the committee chairman saying, "Put a motion to call somebody before us"--which then restricts you as to whether or not we will call that person before us--or whether or not this is sub judice, or whether or not some other procedural technique can be used to get it out of there.

For example, when we did our redrafting of the rules, we acknowledged that you would have a kind of 90-second occasion to state your case about a particular issue. I think I am looking for something like that--not limited, perhaps, to a 90-second thing; however, a member has the right to go in before a committee and say, "I think that this committee ought to do this, this and this."

We should at least get that on the table. Right now, we are inhibited in the sense that you can put a motion in some committees and the chairman will let you talk about an issue for a little while, but, in other committees, you are really shut down. You cannot get the committee to focus on whether this would be useful, within our mandate, or whatever.

Mr. Chairman: It seems to me, Mr. Breaugh, that what you are suggesting is two situations, one which is within the committee's mandate and one which is without.

It seems to me that, in the first instance, you bring a motion and then you must have a debate. The chairman must allow the debate. Those things that are without the mandate should not be brought and the chairman should rule them out of order as being beyond the mandate of the committee to deal with.

Mr. Breaugh: So you have identified where the slippage is now. I could go before a committee and move a motion that certain persons be called. We may--may--then be allowed to argue that motion, but we may also be faced with the position of when the chair says, "That motion is out of order." Then, rather than arguing the issue, I am arguing the procedural point.

Mr. Chairman: Yes, you then challenge the chairman's ruling.

Mr. Breaugh: What I am saying is that, in practical terms, this does not allow me, as a member, to put an issue before a committee.

I think we should take a look at devices which would allow us as members--succinctly, perhaps, but none the less would allow us--to put an issue before a committee. Then, we could say, "Let us not deal with this as being something in or out of order, beyond the mandate of the committee, or whatever." We would make the committee say, "You have had your chance to state your case."

That is what I am arguing for. I am arguing for the opportunity to state one's case. If we do not want to do it, if it is out of order or beyond our mandate, or whatever, make the committee deal with the issue that has been presented.

Mr. Watson: It is an order.

Mr. Breaugh: I do not want to get into that.

Mr. Epp: It seems to me that what he is saying is that it is a right that people should have. The fact that he is drawing it to our attention that members do not have that right right now is something that--

Mr. Chairman: But members do have that right right now if it is within the mandate of the committee.

Mr. Epp: Yes, but they should have the opportunity. I wish Mike would be more specific.

If they do not have the opportunity to make the argument right now without the chairman immediately saying, "Make a motion that so-and-so is going to be called," that is bass-ackwards. They should have a chance to make the argument, first of all, and then the committee should decide whether it is relevant or not.

Mr. Chairman: According to the standing orders, you can only bring a subject in front of you following a motion. That is the only means by which it can get in front of the committee. Make a motion of any kind and then have discussion on it.

Mr. Breaugh: Maybe I could clarify this a bit. I think the problem arises that in certain committees they are fairly tolerant. For example, this morning, right now, I am saying, "Here is an issue that I would like my committee to deal with."

Mr. Epp: But you have to make a motion first so that we can discuss it.

11:30 a.m.

Mr. Chairman: However, you have to recognize that the procedural affairs committee is different from all other committees.

Mr. Breaugh: What I am suggesting is that perhaps what we can look at is some small device which would let us say to the committees that a member should have a right to put an issue before a committee. Maybe we could even put a time limit on it. The committee may then decide, subsequently, to deal with it by a motion, by a ruling of the chair, or in a number of ways.

However, we should explore techniques whereby a member has a right to get that issue in front of a committee. The committee has a right to dispose of the issue in any way it sees fit. It could require that a motion be put, or whatever. If there is a need which was, frankly, not present in previous experiences, there is

now a need to clarify that a member does have a right to put an issue before a committee.

I think members do have a right. In this committee, for example, I have never experienced an occasion when I could not raise a matter for the consideration of the committee. For the most part, we rarely go into saying, "You have to do that by motion," because we simply put an issue in front of the committee. You get some sense of where the committee wants to go with it and how it would like to deal with it, and, at a latter stage, you then formalize it.

Mr. Watson: You are putting on agenda items. That is what you are doing. On your point right now, this becomes an agenda item. Because it deals with rules and procedures, the chairman says, "We are not going to rule you out of order in discussion because it is on the discussion docket here." In my terms, it is an agenda item.

You just put it on, and that is fine. It is quite in order. It seems to me, however, that a member has, in any committee, the right to raise this. If you raise this matter in the standing committee on resources development, the chairman will likely rule you out of order and say, "This is not a matter for discussion in this committee."

Mr. Breaugh: Maybe I could follow this a little bit closer. It might help a little bit.

For example, in the one instance that was referred to me, the normal process in the procedure was as follows: A report was referred to a committee. In committee, the member tried to say how this report had been referred to the committee. It is on the committee's agenda. He says, "Now, what I want to talk about is occupational health and safety, the incident concerning Stan Gray," and on and on. He was told: "You cannot do that. You must put a motion."

He never got his chance to talk about the issue. He was forced to talk about the motion. What I am saying is that, prior to the motion being required, when a matter appears on a committee's agenda, it should be an occasion for the committee to test the water, so to speak, or to talk about the issue briefly. Then, subsequently, it would make some sense to me to say at that point, "We are going to call these witnesses, or we will spend three hearing days dealing with the matter," but we would allow a member the opportunity to discuss the matter that was on the agenda.

I am looking for techniques which would prevent this problem from arising.

Mr. Chairman: Except that the technique is to make a motion and then have discussion on the motion.

Mr. Breaugh: Let me give you the flipside, then. The way this thing is going now, what we are going to have to do in

committee--and we do so reluctantly--is to go in with a wad of motions and make the committee deal with each one of those motions.

You may not want to deal with this issue at all. That is fine. However, we are going to tie you up procedurally until it is coming out of your ears. If you want motions, if you insist that we present motions, we have no problems writing motions. We can write them until you are blue in the face.

Mr. Chairman: But that has been done. Bill 179 was a perfect example.

Mr. Breaugh: And that is what you are going to get again--

Mr. Chairman: It was 40 hours of motions.

Mr. Breaugh: --if you are not prepared to provide an occasion in committee where members can present an issue to a committee.

If you are saying that we must always present motions, we do not have any problem with that. The New Democrats can write motions like no other group in the world that I know of. You will get them. You will spend from now until this session prorogues dealing with NDP motions. If that is what you want, you have it.

What I am saying is that it is not too sensible, from my point of view. Can we not find a way that provides for a member to put an issue before a committee, and give him five or 10 minutes to present his issue? If you do not do that, the alternative to that is going to be that you will spend from now until the cows come home dealing with our motions. If that is what you want, you have it.

Mr. Chairman: It is too bad we did not discuss this back in our review of the standing orders. You are suggesting what amounts to a member's statement period in committee.

Mr. Breaugh: I do not care what you call it. It seems to me that that would not be the best device for it.

Mr. Epp: Let us go back to what Mike said earlier. He just wanted to raise this today, and we are getting into debating the whole thing. I am not necessarily opposed to it.

What he wanted to do was for you and the clerk to get some information on this, and come back with some options. Right now I would like the clerk to take this upon himself, to look at some options, maybe at what other jurisdictions do.

Let us not become overly rigid about the whole thing. If we want to get crazy and rigid, then we will go the same route Mike indicated. Anybody can tie up the Legislature if he wants to. Let the clerk get some options, give him something to do.

Mr. Chairman: You are not into a light subject.

Mr. Epp: I am not avoiding heavy subjects either.

Mr. Chairman: You are into a very heavy subject that should not be dealt with in a flippant manner.

Mr. Epp: I am not.

Mr. Chairman: We do not just move into an area by saying, "Let us have the clerk see what he can find on it."

Mr. Breagh: Could I narrow this a touch? The slippage, the catch 22, is that we have provided that a matter can be referred to a committee by referring an annual report. We have not addressed ourselves to how that referred item comes up on the agenda. In some committees, the committee will say: "This annual report has been referred. What is it you really want to do?" Then the member says, "I want to do this and this," and the committee says, "Yes, we will do that," or, "No, we will not do that."

Now we are in the position where you are saying that the technique for getting that item talked about is a motion. Normally, say in this committee, this would probably not cause a problem, but on other items, in other committees, it is causing a problem because they are saying: "First, I will deal with whether that motion is in order. Then I will deal with whether the motion covers everything you want." There is a tight application of the rules.

The net result of this is that the issue not talked about. We talk about whether the motion is in order, whether it is within the mandate of the committee and many other things, but we never have an opportunity to address the issue. It would be useful to have the clerk look through the Hansards on that one item. We could present that to a committee and then we could look at how we get a referred matter before a committee and how the committee would deal with that.

It is quite logical that the one way to deal with it is the way I have done it in committee. We refer an annual report out. We say that it is now on our agenda and this is what we want to do. We get a response from the other caucuses and the committee says, "Okay, we will schedule three hearing days and we will call witnesses," and that is it. That practice is now being diverted somewhat.

I am reluctant to say to people of my caucus: "You can put motions in front of the committee all day every day and go to 105 motions. If they do not want to deal with Stan Gray and occupational health, write 105 motions. In the course of debating 105 motions, you can say most of what you want to say. If that is not enough, write another 95." However, we ought to be able to come up with a better vehicle than that.

Mr. Chairman: Mr. Breagh, you are putting the chairman of this committee now in a tenuous position. While we are a consensus committee and we deal with things informally and do not adhere strictly to procedures, in this committee, unique among standing committees, with something this serious and far-reaching,

since it is not within our mandate, the chairman has to rule--and this is almost never done in this committee--that you will have to do that by motion.

This is a serious matter and it has political overtones in it, very much so. You are going to have to put your suggestion by motion rather than loosely saying, "How about the clerk and the researcher gathering a little information, then coming back and sharing things with us?"

Mr. Breaugh: Okay. I will move then that the matter of how a referred annual report is put on the agenda of a committee be the subject of a report of the procedural affairs committee.

Mr. Chairman: Any discussion on the motion?

Mr. Watson: Is it a report for the--

Mr. Breaugh: No. Technically the report is referred to the committee.

Mr. Watson: Yes. Could you clarify your second use of the word report? You said it be the subject of a report of the procedural affairs committee?

Mr. Breaugh: Yes. That means that Smirle and John will write up a report for us.

11:40 a.m.

Mr. Watson: I guess I am thinking of a report as something we did this morning to go on to the Legislature. Your intention is that it be the subject of an agenda item for which information is gathered by the clerk.

Mr. Breaugh: Yes.

Mr. Watson: For clarification purposes, the second use of the word "report" does not necessarily mean that we will write a report and send it to the Legislature.

Mr. Breaugh: No. It does not necessarily mean that.

Mr. Eichmanis: We use "memorandum."

Mr. Watson: Or prepare a background paper. I would be happy with that.

Mr. Chairman: Will there be further discussion before we vote?

Mr. Watson: Why are we voting? We never vote in this committee.

Mr. Chairman: Because we have a motion. The chairman said this has to be brought by motion.

Interjection: Maybe we should challenge you.

Mr. Chairman: All those in favour?

All those opposed?

Motion agreed to.

Mr. Epp: This is ridiculous.

Mr. Chairman: Why?

Mr. Epp: I do not oppose the idea of voting on a motion, but in the past we got information on consensus without having to have a vote.

Mr. Chairman: But this is a far more serious, wide-ranging subject and motion that we are getting into.

Mr. Breough: You mean the motion we just voted on?

Mr. Chairman: That is correct.

Mr. Breough: Agreed to unanimously?

Mr. Chairman: That is correct.

Mr. Chairman: Next. Do we want to go in camera to discuss the 1984-85 budget of the committee and the two upcoming ABCs that our researcher has some information on? What does the committee want to do? Stay on Hansard or go in camera?

In camera. That is generally okay. I am seeing nods all around.

Mr. Breough: Do we need a motion for that?

Mr. Chairman: No.

The committee continued in camera at 11:42 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS
PREMATURE DISCLOSURE OF COMMITTEE REPORTS
SUPPLEMENTARY QUESTIONS

THURSDAY, JUNE 7, 1984

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breagh, M. J. (Oshawa NDP)
Cassidy, M. (Ottawa Centre NDP)
Cureatz, S. L., (Durham East PC)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Kells, M. C. (Humber PC)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Substitutions:

Henderson, L. C. (Lambton PC) for Mr. Kells
Pollock, J. (Hastings-Peterborough PC) for Mr. Rotenberg

Clerk: Forsyth, S.

Staff: Eichmanis, J., Researcher, Legislative Library

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, June 7, 1984

The committee met at 10:20 a.m. in room 228.

PREMATURE DISCLOSURE OF COMMITTEE REPORTS

Mr. Chairman: Gentlemen, we have a quorum in place. First thing on the agenda is consideration of premature disclosure of committee reports.

We have a two-page blurb. If you have not had a chance to read it, you might do so now.

Mr. Breaugh: Mr. Chairman, one thing that might be a little helpful would be to pull out of here either a front page or an end page that says, "These are the committee's recommendations." There is really not a change in there. I do not know if it is ever really written down in a place where the members could find it.

All of that is really part of your oath of office, the Legislative Assembly Act and bits and pieces of standing orders here and there, but it is not written down in one place. It might be useful to do that. It is basically just a summary of what was said here.

Aside from that, that pretty well covers the points we talked about. With that proviso, that you would put a summary--I do not know whether they are really recommendations or not, but it would not hurt to call them that--that is everything.

Interjection: Outlining step by step the procedure a committee should follow.

Mr. Breaugh: The only other thing that might be in here is reference to the fact that there is a portion of this which is clearly a judgement call on the part of the individual member. It would be useful to point that out. It is, in part, a member's decision on disclosure of these things. What I am trying to get at is, it is not quite as black and white as you might like it to be.

Would you entertain the idea that perhaps in doing a summary you would include a sentence or so to point out that disclosure of information like this really is, in part, a judgement call on the part of a member? He or she has to decide. There are some occasions in the text of your report here where you get fairly specific. If it is drafted in camera, then you have to hold it confidential, but there are also other occasions when it is the member's discretion that is at work.

Would it be useful to put an extra line at the bottom of a summary to point that out? What do you think?

Clerk of the Committee: My only question would be whether it is perhaps best to leave that unsaid, rather than encouraging it. Say it is unethical and leave it at that, and if the member wishes, I do not think there is anything to prevent a member from discussing the general subject matter, certainly talking about comments which have been made in public hearings when the committee has been hearing witnesses or considering matters in public.

Are you setting it out saying you can? That is my only question, because there seems to be some concern on the part of the members not to encourage that if you did not have to. That, to me, would be offering some sort of opening perhaps.

Mr. Breaugh: What I am happy with is that the report itself has tried to be succinct rather than broad. It tried to specify the occasions when it was clearly out of bounds to release information. That leaves the inference that in general terms it is everybody's discretion as to whether you release information. I am reasonably happy with it as is. I would appreciate some kind of summary.

Mr. Chairman: Any further discussion on this report? Are we going to put it in a report form?

I have a suggestion. At the top of the second page, add another comma.

Clerk of the Committee: There was supposed to be one in there.

Mr. Chairman: Was there? Okay.

I take it the instructions are that the clerk is supposed to go away and come back with something in a draft report form, using this as the basis.

Clerk of the Committee: This would probably be the basis for it. It would most likely be the report itself, with a summary attached to it. As Mr. Breaugh said, there is not much sense in expanding it very much further. You will lose track of what the committee is trying to achieve, which is setting it out in plain language.

Mr. Epp: Mr. Chairman, I think we should be very direct on the whole thing. Lay it out there, and that is it.

Interjections.

Clerk of the Committee: It would be nice to read this, but I think it is just a bit long to read from the table. It would go in Votes and Proceedings. Otherwise, they would bind it and make it a report.

SUPPLEMENTARY QUESTIONS

Mr. Chairman: The next item on the agenda is supplementary questions in the House during question period. On

May 31 I was handed a letter by Mr. Van Horne. It deals with questions in the House; if you recall, an incident occurred on that day. By the way, he is asking for an amendment of the standing orders, subsection 27(d) in particular.

There was a question put by a government private member to a minister, and in that case only one supplementary question was allowed. I believe that was from the New Democratic Party. When Mr. Van Horne also tried to get a supplementary, the Speaker ruled him out of order and would not allow it. He is asking this committee to consider an amendment to the standing orders so that when a question is put by a government member, each opposition party is allowed a supplementary question.

Mr. Epp: Mr. Chairman, I do not recall that specific matter, but I recall on another occasion the Speaker did give two supplementary questions, one to each of the opposition parties. I was surprised this other case even happened, because usually the Speaker does give opportunities to both other parties.

Mr. Henderson: What was the question again? Do you remember?

Mr. Breaugh: Mr. Hennessy was asking about the northern health care stuff, and the Speaker gave Mr. Foulds, who had put the resolution, a supplementary and then would not give Mr. Van Horne a supplementary.

Mr. Henderson: What would happen if Mr. Van Horne asked a question, you got a supplementary and I stood up? Am I refused? Does anybody know? Let us say the Tory party came along with one of your questions. Let us say you asked a question about my riding, and Mr. Breaugh followed up with a supplementary.

Clerk of the Committee: Usually, if an opposition member asks a question, the opposition member gets a supplementary, and then the third party. If it is a Liberal who is asking a question, the Liberal member gets the first supplementary, the New Democrats get the second supplementary.

Mr. Henderson: I understand that, but what if it was on my riding?

Clerk of the Committee: It is within the Speaker's discretion to permit an extra supplementary.

Mr. Breaugh: The problem that Mr. Van Horne has pointed out is that as the standing orders are now written there is a chance for an imbalance to occur. On this occasion, it went from the Tories to the New Democrats. I am guessing, but I would think the Speaker simply said, "There is the member who put the original resolution to the House; he should get the supplementary."

On a couple of occasions, I have heard the Speaker say, "Okay, the question was asked by one caucus; I will give each of the other caucuses a kick at it," but he does not have to do that. I would say his normal practice is not to do that. He is judging: Is it a big important question? Is it a question where it would be

unfair to exclude a local member from asking a supplementary? I have seen him do both. What Mr. Van Horne points out is that the standing orders do not give him the right to do both.

Mr. Chairman: He wants an amendment to the standing orders stating that each of the other parties gets at least one supplementary.

10:30 a.m.

Mr. Mancini: Mr. Chairman, can we saw it off halfway and just make it more clear to the Speaker that he can do it at his discretion?

Mr. Chairman: I believe all supplementaries are at the Speaker's discretion in question period.

Mr. Epp: It is a reasonable request. I have no problem with it, and I think we should honour that.

Mr. Chairman: If we were to recommend this specific, tight rule, then we are taking one type of question from a government member and setting it out in the standing orders and leaving all other questions discretionary on the Speaker. We are making a particular point with one kind of question.

Mr. Watson: Mr. Chairman, I was there the other day when this happened. The Speaker was a bit doubtful about it and his reason was not really that forthcoming. I think it was Bernie Newman who had a question to ask and it was coming down to the end of the clock and he said: "If I had taken another supplementary, your other man would not have got his question in." I think, at his discretion, he was prepared to do it.

I object to the wording of this because it specifies questions put by government members. I can understand that is normally what happens because the opposition asks 95 per cent of the questions, but if an issue comes up that is asked about by an opposition member concerning my riding and then he goes back with a supplementary and it goes then to the NDP, I would certainly like a chance to get in on it. I think it is a mistake putting in here, "questions put by government members."

Mr. Breaugh: I think a more common practice would be for government members to be cut out of supplementaries because it would be more common to have the Liberals asking the question, we would automatically get a supplementary and you would be the ones who would be shut out.

Mr. Watson: That is right.

Mr. Breaugh: I would tend to agree that if you want to rewrite the standing orders--and I am not sure that is the best way to proceed--you would be talking about ensuring that all parties have the right to participate in the questions so that it would not matter where it happened in the rotation, the other two parties would have a chance at the supplementary.

Mr. Watson: I think we should leave the discretion with the Speaker, because people tend to count supplementaries rather than the importance of the issue. There are times when we give him authority to cut it off and there are times when he should have authority to extend it. I am really against tinkering with it. I think the other day if there had been 15 minutes to go in question period, the Speaker would have given it to him and there would not have been an issue.

Mr. Chairman: Mr. Mancini next, and then Mr. Henderson.

Mr. Mancini: Mr. Chairman, just to make sure that I am clear, the Speaker takes it upon himself to decide the number of supplementaries. For some reason I thought he was instructed by the standing orders on supplementaries, but I guess I am wrong.

We do have to understand that basically the question period is for the opposition members to obtain information on government policy, what the government intends to do on certain particular issues. I think all of us would agree that is the basic premise.

That being the case, I think I can support my colleague's suggestion that we should be entitled to supplementary questions because a question put forward by a government member might extract some information from the minister but not the information that we are looking for. It has not been unknown for government members to advise their ministers in advance of questions which may be forthcoming, and therefore we may therefore have what we refer to as a manufactured answer. Whether the answer is right, wrong or indifferent, is not the point of contention. What we have is a certain type of information coming forward.

It would benefit the operation of the Legislature to have other, more spontaneous information come forward from a minister. I understand the comments made by Mr. Watson, but most of the government members are parliamentary assistants, and they have direct links--

Interjection.

Mr. Mancini: Are not most government members parliamentary assistants? Come on. How many are not?

Interjection.

Mr. Mancini: I would say that of the 70 Conservative members, fewer than five are neither cabinet ministers nor parliamentary assistants. This being the case, they do have close links--

Mr. Villeneuve: You are looking at three right here, and I could get you 10 more quite quickly.

Mr. Mancini: I think you are mistaken.

Mr. Villeneuve: I think I am right.

Mr. Henderson: There are at least 20 that you have not included.

Mr. Mancini: How many cabinet ministers are there?

Mr. Henderson: What you are saying is that there might be half a dozen who have no side jobs, no side incomes.

Mr. Mancini: No. I was not referring to the--

Mr. Henderson: There are 25 ministers and 15 parliamentary assistants--

Mr. Watson: I fail to see what this has to do with this topic.

Mr. Mancini: I thought I was referring to side incomes.

Mr. Henderson: --or 40 out of the 70.

Mr. Chairman: Order.

Mr. Mancini: I do not object to anybody being a parliamentary assistant.

Mr. Chairman: Shall we say there are 10 or a dozen who are not parliamentary assistants?

Mr. Mancini: I would hate to say 10. It is a lot more than that; about 25.

Mr. Chairman: Regardless of how many there are, will you continue with your point.

Mr. Mancini: I am not being critical of parliamentary assistants; whether or not they earn their extra salary is not the point of contention here today. However, we must realize that they do have direct links with the ministries; we have to take this into consideration. That being the case, I think we should give a little more consideration to the suggestion put forward by Mr. Van Horne. I know Mr. Watson would agree that, being a parliamentary assistant, he probably sees the ministers on a more regular basis.

We must also realize that government members are usually committed to carrying out the policies of the present government. Opposition members, on the other hand, are not committed to carrying out the policies of the government; therefore, we have to have an opportunity to obtain information which we believe will not come from questions posed by government members. This is political reality.

Mr. Chairman: We seem to be split on this. Mr. Van Horne has asked for an amendment to the standing orders. I can read what the Speaker said. Is this useful?

This is a quote from Hansard, May 31, 1984, after Mr. Van Horne brought up this point of order. Mr. Speaker said: "As you are aware, and I do not want to be stuffy about this, this matter is not covered specifically by the standing orders. It has been my practice in the past to recognize all members who wish to ask a supplementary. But given the fact that one of my responsibilities

here is to protect the rights of the minority--and, quite frankly, I see the back-benchers on all sides of the House perhaps as a minority--I thought it only fair, given the amount of time left and having listened to two supplementaries, that I felt adequately addressed the problem, to recognize another member with a new question.

"I am not changing the tactics; it was a discretionary call. Given the time, I thought it was the fair thing to do."

Those were his comments. In the light of this and in light of the fact that we are split, is it possible that a recommendation be given to the Speaker rather than actually recommending that the standing orders be amended?

10:40 a.m.

Mr. Epp: I was thinking of that myself, Mr. Chairman, that there might be some happy medium so that we could give some direction, and I do not mean direction in a pure sense, but give some advice or give the Speaker the benefit of our thoughts on the matter, that we feel he should give both opposition parties an opportunity to ask supplementary questions without deliberately changing the standing orders. That may be helpful in opening up that whole subject.

Mr. Henderson: We could use the words that the Speaker be lenient in the case of an extra question--just something like that.

Mr. Epp: The same goes in your own case.

Mr. Henderson: If it were a question about my riding and you asked it, and the New Democratic Party had and I could not, I would feel I was not dealt with fairly. Mind you, I am not sure I understand Mr. Van Horne's concern. He is your critic for Northern Affairs.

Mr. Epp: Yes, he is.

Mr. Henderson: Had he been a member from the north, I would have disagreed strongly with the Speaker. Mr. Van Horne was acting as a political animal in that case.

Mr. Epp: You know he is from the north.

Mr. Henderson: No, he is from London North.

Mr. Epp: London North, yes; north of London. He is from the north.

Mr. Henderson: I have been there once or twice. I spent a year there once.

Mr. Epp: I have been there a few times more.

Mr. Henderson: I was out jogging around the streets in northern London for a year once.

Mr. Epp: It is a great place.

Mr. Henderson: Just to clarify my position, Mr. Chairman, I would go along with the recommendation that the Speaker be lenient if we could come to something along those lines.

Mr. Epp: Particularly if he refers to the Liberal members, right?

Mr. Henderson: No. They are no better than we are.

Mr. Edighoffer: Mr. Chairman, I think our recommendation is ample the way it is now.

I do not know whether you recall, but I think the main reason we started doing this the other day was to give more private members the opportunity to ask questions. I do not know whether you noticed that two or three days ago the leaders of the Opposition asked questions and there were no supplementaries from the opposition parties. The questions ran along just as smoothly and as quickly as possible. I think the first two questions took about 10 minutes at the most.

I would just leave it the way it is, because personally I am in favour of no supplementaries from other parties. That is pretty extreme maybe, but I am in favour of that. I think what we have recommended is that the Speaker still has the discretion, if he wants, on all the other questions here to allow him exceptional circumstances.

Mr. Watson: We are back to the status quo then.

Interjection: He wants to tighten it up.

Mr. Edighoffer: With this, with what we have recommended.

Mr. Chairman: We already made a recommendation in our second report about giving the back-benchers as many questions as possible, and Hugh is saying, "Stay with that."

Mr. Henderson: What was that? I was not aware of it.

Mr. Edighoffer: The official opposition wants two questions and two supplementaries. The third party wants two questions and two supplementaries in the same party. Then, for all other questions, one question and one supplementary.

Mr. Henderson: All private members?

Mr. Edighoffer: All private members; for all other questions, one question and one supplementary only. Then just prior to the recommendation, we said the committee recommends that the Speaker only permits supplementary questions by the member asking the original question or by members of his party.

Mr. Epp: That is our report, and the House of Commons in Ottawa, as all members know, does not permit supplementaries from the other parties. I really prefer that too because, and I do not

want to regurgitate everything we went through months ago on this thing, sometimes it is difficult to come up with that extra supplementary.

There is some kind of pressure to come up with it, because if someone comes up with a question on municipal affairs and a supplementary, there is pressure on Herb Epp to come up with a supplementary and it may not have been thought out as well as it should have been, and this kind of thing and vice versa, or in health or whatever. I guess Ron felt he should have been allowed a supplementary because the NDP got one.

If we had followed our reports in this case--

Mr. Chairman: There would not have been one even from the NDP.

Mr. Epp: That is right. If we could get that through the House as an amendment, that would be much preferable. In view of the fact that we have given this report, we should not extend it too far because we are going to have to backtrack.

Mr. Henderson: Then let us accept the committee report.

Mr. Chairman: I presented that committee report to the House several weeks ago. It may or may not be debated and have anything further.

Mr. Mancini: I believe in more for everyone, not less.

Mr. Chairman: Is it the consensus of the committee that we leave the status quo and ride on our report that is already in front of the House?

Mr. Henderson: Someone should respond to Mr. Van Horne. The committee concurs with the committee report in response to his private sentiment.

Mr. Epp: I suggest we do it this way: Before we injected this, I thought there was a feeling that the Speaker should be a little more lenient with respect to permitting questions from the opposition parties if it concerned their riding or if a Conservative member asked the other two.

Why do we not say that, failing the adoption of this report, the Speaker be a little more lenient with respect to recognizing those other factors?

Mr. Cureatz: We cannot do that, because if someone sitting in the chair is lenient when a particular situation arises, and the next day something else comes up and he is not that lenient because he does not think it appropriate, then someone stands up and asks, "What happened? Why is today different?" I think one has to do the best he can to go by the standing orders.

Mr. Epp: Sam, you came in a little late. What we are talking about here, with all due respect, is Ron Van Horne's

dilemma, where Mickey asked the question, then they went to Jim Foulds and he did not get a chance because he was Northern Affairs critic and he felt he should because he wanted to.

The other situation is, if there is a question asked about your riding and Hugh asks the question, Mike gets a supplementary and you would like to ask a supplementary but you are cut out because the standing order says only one supplementary.

What we are saying is, in those kinds of circumstances we could ask the Speaker to be a little more lenient.

Mr. Henderson: In special circumstances.

Mr. Epp: Yes. We are not saying in every case; we are saying that is the thinking of this committee.

Mr. Henderson: That is a real example; if they have asked a question about my riding and it was really important. We all have it come up; it could be any one of our ridings.

Mr. Cureatz: I can see Elie standing up and saying, "I have another special circumstance, Mr. Speaker."

Mr. Chairman: According to the recommendation of this committee in our second report, in essence we said one question and one supplementary, preferably from the same person who asked the question, and we have left the discretion with the Speaker in special circumstances.

If we come off that at this point, we are going to be in a situation where we are watering down our own report before it ever hits the House.

Mr. Henderson: Mr. Chairman, you added something to that statement that you did not before, with "special circumstances." Is that in the report?

Mr. Chairman: No, not the words "special circumstances," but the Speaker does continue to have a discretion. Presumably if it is affecting your riding and your riding is mentioned, that would be one of the things where he would use his discretion.

Mr. Edighoffer: Mr. Chairman, since Mr. Van Horne has written us, I suggest you write him back and tell him we have discussed it and we feel the report is before the House and there will be ample time when we discuss it in the House. That is why we want the report to go before the House.

Mr. Chairman: The chairman will write to Mr. Van Horne and let him know what the committee has decided and what the consensus is.

The only other thing we have on the agenda is the 1984-85 budget. Does the committee wish to go in camera to discuss it?.

Mr. Mancini: I move that we go in camera.

10:50 a.m.

Mr. Chairman: Before doing so, Mr. Mancini, is there anything else we should discuss while Hansard is here?

Referring to Mr. Breaugh's motion of last week, I do not believe the clerk has had time to work up the procedures. The clerk has advised me it will, however, be ready for the next meeting.

Mr. Breaugh: Despite the fact the motion was passed unanimously by the entire committee?

Interjection.

Mr. Chairman: Yes, unless there is something else to be discussed before we go in camera.

Mr. Epp: Yes, there is one matter, relating to the next meeting. Next Wednesday we are going to use Thursday's timetable, because we are sitting on Wednesday and not on Thursday. Presumably that means we could sit as a procedural affairs committee next Wednesday morning. I am going to be out of town at another hearing that day. I imagine other members may have similar conflicts.

I would suggest, therefore, that if we can avoid meeting next week and meet the week after instead, it would be more convenient for all concerned.

Mr. Chairman: I see all parties are nodding in agreement.

Mr. Watson: I suggest we get that thing over with and be out of here by the week after.

Mr. Epp: I understand we are sitting the week after and we may have a few things that will be accumulating.

Interjections.

Mr. Chairman: Shall we play it by ear? The committee will not meet next week, but if the House is still sitting the following Thursday, we will meet to try to wrap up some things.

The committee adjourned at 10:55 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

REFERRING SUBJECTS TO COMMITTEES

NIAGARA PARKS COMMISSION

PREMATURE DISCLOSURE OF COMMITTEE REPORTS

THURSDAY, JUNE 21, 1984

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breagh, M. J. (Oshawa NDP)
Cassidy, M. (Ottawa Centre NDP)
Cureatz, S. L., (Durham East PC)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Kells, M. C. (Humber PC)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Clerk: Forsyth, S.

Staff: Eichmanis, J., Researcher, Legislative Library

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, June 21, 1984

The committee met at 10:17 a.m. in room 228.

REFERRING SUBJECTS TO COMMITTEES

Mr. Chairman: I think members have an agenda which the clerk has placed in front of you. The first item should be dealing with Mr. Breaugh's motion regarding the referral of annual reports to committees. That is also in front of the members. Have you read that?

Mr. Breaugh: Yes. What I was actually thinking we could do, which would resolve several conflicts which have come up in different committees--and I do not think you would want to write this into the standing orders although you may--would be to use something like that.

I think the difficulty arises from the fact that no one really knows, and there really is no procedure whereby an annual report gets dealt with in the committee. In different committees it is done in different ways.

In some committees I have sat on, for example, the committee simply strikes a subcommittee and one from each party goes off into a corner somewhere and says: "Here is how many days we would like to spend on this particular report. Here is really the issue that each caucus wants to deal with during the course of these days. Here are the witnesses we should call. This is the order in which we should call them." The subcommittee, in effect makes up its own procedure.

Smirle points out that in public accounts they have a little thing that I think is quite good, just from the point of view that it often removes the confusion of it all, and that is if you are the individual who represents the caucus that has referred an annual report, you really ought to be giving some notice to other people on the committee as to exactly what you had in mind.

However, I think I would like to see us do this in a little more detail and address ourselves to the matter of witnesses, the matter of how you take an annual report, which is a semifacetious approach to it all, and really address yourselves to the issue of what you want, such as how to set the agenda for the committee, how to determine the calling of witnesses and technical things, such as how many hours you are going to sit and things like that. I have been on committees, for example, in which we wanted to do some advertising; on one or two occasions we wanted to visit other centres and do that kind of stuff, so there is a fair amount of organizational work.

I think it might be useful not to rewrite the standing orders but simply to go through the standing orders and the

practices of the various committees and come up, if you like, with a recommended way to proceed when an annual report is referred out. For example, in my caucus the arguments come hot and heavy that we cannot even get the motion dealt with, so this is all a bit of a waste of time.

In part that may be true, but I think in part what is also missing here is that there is no recognized process for dealing with the annual report, so it becomes kind of catch as catch can. Someone walks in with a motion that no one else in the committee has ever seen and, even if the committee were prepared to deal with it, there is some rationale for the committee to say, "We have never seen this motion before, we do not know who these witnesses are, we do not know what you really want and we really do not want to be bothered," so it gets completely shuffled.

I suppose a government does not worry a lot about that, but you do create a lot of animosity. We have in the standing orders the process whereby the annual report can be referred, and I think the obligation is then on us to see that it is a functioning part of the standing orders.

I would simply like to see us take the little process Smirle has begun here and simply go through the standing orders, go through the practices of the various committees and recommend a procedure that could be used by the committees. I do not know that you want to make it mandatory, but I would see some validity in the argument that if some committees are going to adopt this procedure, then the same rules ought to apply so it would not matter which committee you went to.

I think this is a good beginning. There is certainly no rush on it now, but I simply think we could establish a little set of practices here that would be useful and, at least if we are going to refer annual reports and get into big arguments, they will at least be based on issues instead of on misunderstandings and procedural problems.

Mr. Watson: Public accounts now, you say, is doing what you are suggesting?

Mr. Breaugh: One of the ideas they use, which I think is a good one, is simply to say to people: "Okay, you have referred something out to the committee. Give us a motion in writing and give us a week's notice." They say a week because the committee meets once a week. But at least when they sit down to argue out whether they are going to do something, everyone has had a chance to think about it for a while and everyone knows exactly what it is he is arguing, and I think that is a useful kind of argument.

Mr. Chairman: You are saying that notice of the agenda is really set or given a week ahead.

Mr. Breaugh: Yes. For example, if you want me to speculate a little bit on what might be useful, it would be a useful thing to say to a committee: "Okay, when an annual report is referred out, put the matter on your agenda and give notice to the committee members that next week we will deal with this.

Between now and then if you have witnesses you would like called, if there are issues from the report you would like dealt with or if you can give us some idea of how long you want to spend on it, all of that information, file it with the clerk this week. Next week we will have a little organizational meeting and we will decide whether this is so complicated that we have to strike a subcommittee or whether the committee can deal with it now."

Everyone would have an equal chance to be aware of what really is being proposed here.

Mr. Chairman: Excuse me, I have one question. At that point, when they come back after the week, what happens if the majority of the committee simply does not wish to deal with that subject?

Mr. Breaugh: Then the committee does not deal with it.

Mr. Chairman: But it is decided--

Mr. Breaugh: I think we have to address ourselves to that problem, but in the end it would not matter what the motion was. If a majority of the committee does not want to do it, you are not going to do it. I am just trying to clear the process so that a committee really decides, in a very conscientious way with everybody knowing what is being proposed here, yes or no, and it is not fudged.

My people are really upset with the idea that they are preparing motions and going to committee, and they have, first of all, a procedural argument about the motion; second, the whole idea of referring an annual report is forgotten, and the majority of the committee simply says no.

I think it would do us some good to recommend a procedure here whereby you do get to address yourself to the issue, you do not get fuzzed away on procedural matters and everybody has sufficient time and notice and all that, so it is a good, conscientious decision of the committee whether it will or will not proceed.

Mr. Rotenberg: Mr. Chairman, I just wanted to clarify something with Mr. Breaugh. Are you applying this procedure just to the referral of annual reports or to all agenda items of committees?

Mr. Breaugh: You could expand it to do it that way.

Mr. Rotenberg: You see, I agree with the sense of what Mr. Breaugh is saying. If, for instance, you get a bill referred to a committee, I do not want to take away from the prerogative of the chairman to set the agenda, because this could be taken and used possibly.

Let us say a bill is referred to committee and a few days later a notice goes out for a meeting and someone says, "Hey, you did not bring a motion to the committee to have this bill dealt with today, and therefore you cannot do it."

I agree with Mr. Breaugh that maybe we should not change the standing orders. I think we might have a recommendation to committees that, when members other than the chairman, and I think there should be that qualification, wish to have items put on the agenda, they should give notice of motion one week ahead of time for a matter to be debated and put on the agenda.

Having said that, of course, by unanimous consent the committee can always waive the one week's notice if something needs to be put on the agenda right away. I am not precluding that.

With those reservations, I agree with Mr. Breaugh that giving notice of motion asking that things be put on the agenda by people other than the chairman, who has the prerogative of setting the agenda, gives all committee members on all sides of the House the chance to know that next week we are going to debate whether this will be debated.

I think that would be an advantage to all committee procedures. Maybe we should do that in some way with the precedent of the public accounts committee, so there is a recommendation in this committee to all the committees to consider adopting that as a practice without putting it in our standing orders.

Mr. Breaugh: If I could interject, I do not want to set up something here about which we could have yet another procedural argument. My best option here would be simply to lay out the current practices, what has been done in the past and what is the recommended practice for a committee in structuring its agenda.

Mr. Rotenberg: That makes sense.

Mr. Chairman: Where do we go from here?

Mr. Rotenberg: I am in accord with what Mr. Breaugh says. We can ask the clerk, in the light of what Mr. Breaugh just said about present practices and recommended practice, to write up something to bring back to us. If it looks good, we can pass it on to the other committees.

Mr. Chairman: Okay. The clerk will prepare something on that, some recommendation for us, which will come back, if we are sitting, maybe next week.

Mr. Breaugh: There is no great rush on this.

Mr. Rotenberg: Are we going to be here next week?

Mr. Breaugh: I do not control the order of business here.

Mr. Rotenberg: Yes, you do.

Mr. Epp: What is on the agenda next week?

Mr. Rotenberg: We know what is on the agenda. We just want to know how long Mike is going to talk.

Mr. Epp: It is the government's prerogative to propose and the Legislature's to dispose.

Mr. Rotenberg: That is right. There are proposals before the Legislature. It depends on how long they take to dispose.

Mr. Watson: Do you want to be here next week, Herb?

Mr. Epp: I would prefer not to be.

Mr. Chairman: Let us put the second item on the agenda, the committee budget, down to the bottom of the matters to be considered. The researcher wants to discuss the Niagara Parks Commission.

NIAGARA PARKS COMMISSION

Mr. Eichmanis: I was at the Niagara Parks Commission on Tuesday and--

Mr. Chairman: Excuse me. You will recall this is one of the ABCs we propose to review in the fall.

Mr. Eichmanis: I had an excellent tour and was most impressed by the way I was treated by the commission. I felt it might be of interest to the committee to spend a day down at the commission when we are reviewing that agency. They have a boardroom we can use and I think there are a number of items, a number of installations and facilities the committee should have a look at to get an idea of how the commission operates. It is a most interesting day spent at the commission. I highly recommend that the committee take the opportunity to go down and visit it.

Mr. Watson: Do you think the Board of Internal Economy would approve our travel budget?

Mr. Epp: I think, Mr. Chairman, judging by what Mr. Eichmanis has said, we should take advantage of that.

Mr. Rotenberg: Would that be one from each party?

Mr. Breaugh: Let us go, and tell Bob Nixon after we have gone.

Mr. Chairman: When are you contemplating we go? In September?

10:30 a.m.

Mr. Eichmanis: Yes, in September.

Mr. Rotenberg: One of the days when we are scheduled to do ABCs.

Mr. Eichmanis: There are two ways of doing it. One, we can take a day and simply go down there and have a look and that is all. Then we can have them come back for the hearing in Toronto. The alternative is to have the hearing at the commission,

although I guess it is not our custom to do that. We have never done that before.

Mr. Epp: Quite honestly, I am not necessarily opposed to having it some other place, including Barrie, but I think if we can have it here and it does not extend any great inconvenience to anyone else, then we should have it here.

Mr. Chairman: Hansard is here and will not be down there, and so on.

Mr. Epp: It would be different if you had 100 or 200 people coming. I know we took the standing committee on general government to Barrie-Vespra because of that hearing. When they can more easily come up here, then we should have it here.

Mr. Chairman: Shall we leave it with the clerk to try to arrange a meeting?

Mr. Rotenberg: Do we need a whole day on tour there?

Mr. Eichmanis: It is about an hour and a half drive there.

Mr. Rotenberg: You drive slowly.

Mr. Eichmanis: That means we probably will arrive around lunch time and have lunch at one of the restaurants there. To see the various facilities would probably be another couple of hours, so we would not probably get out of there until maybe four o'clock or 4:30. Then we would not be back until roughly six o'clock. I think it would mean roughly a whole day.

Mr. Chairman: Shall the clerk get a van for the committee?

Mr. Breaugh: The clerk does an outstanding job in arranging such things.

Mr. Eichmanis: In addition I should advise the committee there is a nine-hole golf course with the administration building.

Mr. Epp: Nine? I thought 18.

Mr. Eichmanis: There are two. There is a nine-hole golf course in front of the administration building and an 18-hole golf course further down.

Mr. Breaugh: You have to go through the golf course to get to the administration building.

Mr. Eichmanis: Exactly.

Mr. Breaugh: Members should dress accordingly.

Mr. Epp: Mr. Chairman, I appreciate John's suggestion, but I am wondering whether it might be appropriate to meet a

little earlier in the morning and have some of the business done in the morning.

Mr. Breaugh: Do you want to tee off around eight?

Mr. Epp: Perhaps we could start the meeting at 10 o'clock, then have lunch and maybe spend an hour or two for meetings in the afternoon to get it done.

Mr. Chairman: I think it is contemplated we will hold the hearing the next day.

Mr. Epp: No, I mean the tour itself.

Mr. Rotenberg: If we leave here about 9:30 we will be there about 11 and then leave there about 3:30 so that we can avoid the rush hour coming home, that sort of thing.

Mr. Chairman: I see what you mean.

Mr. Watson: I do not think that is what someone else had in mind to do.

Mr. Breaugh: Herbie wants to go down the night before.

Mr. Epp: No, that is not what I was saying. I was saying that if we left here about 8:30, we would get there around 10 o'clock or 10:30. We would have an hour-and-a-half or two-hour tour and so forth, maybe have lunch, then have another hour's tour to finish things off.

Mr. Rotenberg: Is that the nine-hole tour you are talking about?

Mr. Epp: Then if people wanted to go golfing or do whatever during the rest of the day, they could do that. If we have the meeting too late in the afternoon, by the time we get out of there it is five o'clock or six o'clock or something. I am just suggesting we back things up a little.

Mr. Edighoffer: He is suggesting we start early, just in case the tour goes on a little longer than expected.

Mr. Rotenberg: Yes, I thought that was what he meant. We will leave it in John's capable hands.

Mr. Chairman: Fine. Thank you. Now I would also say to the committee that we have conflict of interest in front of us. I would ask whether we want to even contemplate starting it today or next week if we are still sitting, or whether we wish to leave that until fall. It is an involved topic.

Mr. Epp: Let us leave it. There is no sense starting it.

Clerk of the Committee: There is a report that was issued a couple of weeks ago by Mitchell Sharp and Michael Starr dealing with conflict of interest proposals at the federal level.

I have not had a chance to read it. I have the report and thought I would just try to summarize it for the committee. I have the material from Britain, but I think you might wish to consider it first thing in the fall after we have dealt with ABCs.

Mr. Chairman: Fine. Before we discuss the committee budget, is there any other subject?

PREMATURE DISCLOSURE OF COMMITTEE REPORTS

Mr. Breaugh: Are you today taking up this report on the premature disclosure of committee reports?

Mr. Chairman: Yes. I have looked it over and actually signed it. It was in accordance, and I understand you also looked at it, Mr. Breaugh. The clerk added a summary, which is really a summary of what is on the preceding two or three pages. Do all members have that? Do you just want it presented to the House as a report? Do you want to ask for a debate on it?

Mr. Breaugh: The traditional way we have done it is to present it and move its adoption, and I think I would prefer to do that. I would like to see that on the record. I do not know if we are ever going to get a chance to debate this matter, but I think that in a formal sense, that is the way it should be done, because we do other reports in that manner.

Mr. Chairman: Okay. All right.

Mr. Watson: I think it should go on. I mean, if it gets tabled, it gets on there, and then will it not become a matter of--if you do that do you get a chance to say something, to join the debate. Right?

Mr. Breaugh: Yes.

Mr. Rotenberg: The chairman does that.

Mr. Watson: Yes, the chairman does it. Are you thinking about reading the summary?

Mr. Chairman: No, normally as Mr. Breaugh said, you just report and move its adoption.

Mr. Breaugh: I would think it would not be very difficult to give the Speaker a little note ahead of time saying that you have a brief summary of the report, and it is only five sentences. I do not think that would be--

Mr. Chairman: Are you thinking of me reading the summary at the back of this report?

Mr. Breaugh: Yes, if you just read the last page, which is really five sentences.

Mr. Watson: What I am thinking of is of how things are likely to happen realistically. They are not likely to have a report and get into it, but if you introduce the report, we have

done this, we have put it on the record and then that appears in Hansard. When an issue comes up, even if it does not get formally adopted, whoever does the looking back to establish precedence will say: "This is not a precedent, but the chairman of this committee made this report, and this was a summary of the things they decided at that time. It really was not precedent, but it is there in the record."

Mr. Chairman: In other words, you are thinking, if it never again gets debated or dealt with in the House, at least that much is on record or brought to the attention of the members.

Mr. Watson: Yes, or an issue comes up in a committee and they say, "We do not have any rules on this." No, we do not have any rules, but these rules were at least suggested and they were recommended.

Mr. Breagh: Yes.

Mr. Rotenberg: If I may make a suggestion--I think there is unanimous agreement in this committee that this report should be adopted. Am I correct?

Mr. Breagh: Yes.

Mr. Rotenberg: Because of the constraints of time and so on, if the chairman and one member of each party could each talk to their House leaders, and indicate that this is unanimous and have the House leaders, in their process, agree, then what I might suggest is that the chairman get up and present the report and move its adoption. Without speeches, we can have it adopted in the House, if you can get some prior consent of the House leaders. That could be done some time next week, if we can do without speeches.

Mr. Watson: Are we going to be here next week?

Mr. Rotenberg: Yes, I think we are going to be here next week. The indications are that we will. Or else we could just hold it over.

Mr. Watson: Let us not do it that way, because Mr. Breagh wants this report. He might have something to do with keeping us here next week and I would not want to give him any ammunition like that.

Mr. Rotenberg: Seriously, I think it would be a good idea to have this report adopted by the House. Either that, or just bring it in and then it goes on the order paper, and then some time in the fall you put aside half an hour, by agreement, and have everybody get up and give a little speech and then have it adopted. You should push it for adoption, not just for introduction.

Mr. Chairman: Are you thinking of doing that in place of reading the summary, or in addition to reading the summary?

Mr. Rotenberg: I think if you got up, read the summary,

and said, "I move the adoption of this report," and no one else speaks by prior agreement, you would get the House leaders' agreement to have it adopted, providing each House leader gets a chance to look at it and see that it is acceptable to the three caucuses.

Mr. Chairman: I think the clerk is stating you are required to move the adjournment of the debate.

Mr. Rotenberg: I can put it another way. I suggest you do that--if that has to be done--and then we would have to leave it on the order paper. At some early future date, we could schedule a very short debate on it and have it adopted by the House. We have come this far, I think it should be adopted by the House.

I think we can get that done if there is unanimous consent and agreement that it is not going to take any time. But I may have to hold it over until the fall. It will be on the order paper.

Mr. Watson: All I am suggesting is that before you move the adjournment of the debate, it is customary to give a paragraph or so of what it is about. It seems to me that the paragraph or so of what this is about--

Mr. Breaugh: --is the summary.

10:40 a.m.

Mr. Watson: --and you can refer to it as the summary. "This is the summary of the report, and I move the adjournment of the debate." That will get the summary on the record, rather than just that a report was introduced.

Mr. Chairman: Can I suggest that I follow what Mr. Watson has just said and, in addition, that I write a letter, or have the clerk write a letter and I will sign it, to the House leaders requesting a short debate as soon as possible, which of course will be in the fall, and also send a copy of this report to the chairman of each standing committee.

Mr. Breaugh: That is a good idea.

Mr. Rotenberg: Just leave it to the other members to speak to their House leaders.

Mr. Chairman: At least we have then circulated it, even if it does not get debated in the House.

Is there anything further before we go on to the committee budget? Do we wish the discussion of the committee budget to be in Hansard or in camera?

Mr. Rotenberg: I suggest we adjourn the meeting and the members stay on. There is nothing else on the agenda today, Mr. Chairman.

Mr. Chairman: No.

Mr. Chairman: Is it agreed that we meet in camera? I see nods from all three parties.

The committee continued in camera at 10:42 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

REVIEW OF AGENCIES, BOARDS AND COMMISSIONS
ANIMAL CARE REVIEW BOARD

WEDNESDAY, SEPTEMBER 5, 1984



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)

VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)

Breaugh, M. J. (Oshawa NDP)

Charlton, B. A. (Hamilton Mountain NDP)

Cureatz, S. L., (Durham East PC)

Edighoffer, H. A. (Perth L)

Epp, H. A. (Waterloo North L)

Mancini, R. (Essex South L)

McLean, A. K. (Simcoe East PC)

McNeil, R. K. (Elgin PC)

Rotenberg, D. (Wilson Heights PC)

Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Assistant Clerk: Decker, T.

Staff: Eichmanis, J., Researcher, Legislative Library

From the Ministry of the Solicitor General:

Chalmers, J. J., Solicitor, Legal Branch

Ritchie, J. M., Director, Legal Branch

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Wednesday, September 5, 1984

The committee met at 2:22 p.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
ANIMAL CARE REVIEW BOARD

Mr. Chairman: We are reconvening from this morning. We have scheduled for us the board of directors of the Animal Care Review Board, but we have some difficulties. There are two gentlemen in the room with us who are solicitors with the Solicitor General's office who are attached to or are advisers or counsel to this board. Perhaps they could come forward and identify themselves and maybe identify the problem we have and see what the committee wants to do about it.

Mr. Ritchie: Thank you, Mr. Chairman. My name is John Ritchie. I am the director of legal services with the Ministry of the Solicitor General. On my left is John Chalmers, counsel with the ministry.

First, I would like to apologize. We have had our own difficulties in the ministry. Frank Wilson, our assistant deputy minister, is the program manager in this area. Unfortunately, we found out at the last minute this morning that he could not attend this afternoon.

There were further complications. He had made arrangements for Dr. Secord, the chairman of the Animal Care Review Board, to attend today, but Dr. Secord unfortunately had to leave the country. We were scrambling yesterday to bring in the de facto vice-chairman of the board and he had a conflict which was unavoidable. It would, therefore, appear that we are in your hands.

John Chalmers acts as counsel to the hearings before the Animal Care Review Board and he has put together some of the material before you and answers to some questions that were supplied in advance. We are in your hands as to whether you would like another date on which we could have board representation here.

Mr. Chairman: Thank you.

Mr. Epp: Could Mr. Ritchie be a little more specific on why Mr. Wilson cannot be with us? He was the one who was really supposed to come and, since he has had a lot of notice on this, I am just wondering why all of a sudden he cannot be with us.

Mr. Ritchie: I do not have all the details. I understand he is with the minister and the deputy. I do not know whether they are meeting with other people or what it is about. We learned through his secretary that he would be with the minister and the deputy this afternoon.

Mr. Epp: I see appearing before the committee as a serious responsibility, particularly when that date has been set some time in advance and the assistant deputy was obviously aware of it.

Mr. Ritchie: We humbly apologize to the committee.

Mr. Edighoffer: Mr. Chairman, I wonder if we could be informed of just what notice these people had? Did they have ample notice?

Mr. Chairman: How much notice has the board had?

Assistant Clerk of the Committee: They have had well over a month.

Mr. Edighoffer: How long is Dr. Secord going to be out of the country?

Mr. Chalmers: I expect he will be back towards the middle of next week.

Mr. Breaugh: Mr. Chairman, I am at a little bit of a loss here. Was the committee notified in any way that the board would not appear?

Assistant Clerk of the Committee: No.

Mr. Chairman: No. I am advised by the clerk and the researcher that we were not notified. It is just when these gentlemen came in now that they advised us of their difficulties.

Mr. Breaugh: I do not see much sense, frankly, in pursuing it with these gentlemen. I think the committee is owed an explanation by the minister and by the chairman of the board. I do not see much sense in pursuing it here this afternoon, but I would sure like the answer as to why nobody bothered even to give us the courtesy of a reply that they would not be able to attend. Are there not four members on this board?

Mr. Chairman: Yes. Mind you, I think these gentlemen with us today just learned of the problems yesterday and, as they said, attempted to scramble.

Mr. Breaugh: I would suggest we could perhaps go through some more of the briefing material this afternoon but that we adjourn this hearing until we do get an explanation.

Mr. Watson: Who is on the board?

Mr. Chalmers: Dr. Alan Secord is the chairman of the board. Mr. Carl Haas, a retired businessman, acts as the vice-chairman although I am not certain there has ever been an order in council appointing him. Then there is Mr. Lorne Graham from Cannington, who is a retired school principal, I believe. As to the fourth member, I am searching my brain because in the two years I have been counsel to the board he has never sat at a hearing. I am sorry. I could probably advise you in a few minutes.

Mr. Chairman: That is fine.

Mr. Chalmers: He is from Sunderland. He has a dairy farm in Sunderland. I know that. I just know he is usually not available when I call to form a quorum of the board.

Mr. Watson: Are you saying the board is not active?

Mr. Chalmers: It sits approximately four to five times a year.

Mr. Epp: This fellow never shows up?

Mr. Chalmers: It is not a matter of showing up. Normally, they try to have three people sit for every one of these hearings. Whenever we are notified of an appeal, the notification goes to Dr. Secord. He sends the notice down to me and asks me if I can get enough members together for a quorum. All that is required is two. We normally try to have three sit on these appeals.

Mr. Epp: But usually this one person does not help or does not show up for the quorum?

Mr. Chalmers: The notice provisions are extremely short. There are only five days for someone to appeal an order. It is issued and then the board has to sit within 10 days. Everyone has to be notified within the 10 days by registered mail of the date, the hearing and everything else.

Usually I try to phone members of the board as quickly as I can and say, "Will you be available two days hence?" If the first person is not, then I go to the other two, until I get at least three people. It just happens invariably--I guess because he does run a very active dairy farm--that trying to get him on very short notice can be difficult. One time I did call him and he said, "Yes, I will be there." Then the appeal fell through and I had to notify him, "Do not bother. It is not going to meet after all."

I do not think there is any fault in it. That is just the way it is because of the infrequency of the sittings and the very short time period.

2:30 p.m.

Mr. Watson: How come you can get them on a hearing within 10 days and you cannot get them to this committee within a month?

Mr. Chalmers: I am afraid I cannot answer that.

Mr. Watson: Of course, if you had a month's notice and I am saying if the committee has to meet within 10 days and they can get--

Mr. Chairman: In fairness, perhaps it is not the counsel to the board's duty to round up the members to appear before this committee.

Mr. Chalmers: No, sir, it is not.

Mr. Chairman: That is right. It is not.

Mr. Cureatz: That was not the question.

Mr. Epp: To be fair, it is not these gentlemen's fault that the other people have not shown up.

Mr. McNeil: Maybe we can have an explanation from the minister.

Mr. Cureatz: I hate to say it, but maybe there is a lack of communication with members of that particular board. They may not understand or appreciate what is requested of them to appear before this committee. I can see that taking place.

Mr. McNeil: We do not know.

Mr. Chairman: Perhaps I would ask the clerk what type of communication was made with the board.

Assistant Clerk of the Committee: I can get a copy of the letter that was written to them.

Mr. Chairman: There was a letter written to them.

Mr. Epp: And they acknowledged it?

Assistant Clerk of the Committee: I believe so.

Mr. Breaugh: This would never have happened if Doug Wiseman was the Solicitor General.

Mr. Ritchie: Dr. Secord, the chairman of the board, was scheduled to be here. It is only over the last--and I am not certain how many days--

Mr. Chalmers: Thursday or Friday.

Mr. Ritchie: --last Thursday or Friday that this problem first arose. Perhaps the committee is right and we should have thought to notify the committee ourselves. Unfortunately we did not.

As Mr. Chalmers has mentioned, we did endeavour to get Mr. Haas, who has probably acted on every appeal since the inception of the board. We learned this morning that he could not make it.

Mr. Cureatz: Mr. Chairman, can we organize an alternative sitting?

Mr. Chairman: We can perhaps discuss this after the gentlemen leave, as to what procedure the committee wants to do, or perhaps you want to give them instructions now.

Mr. Breaugh: We could probably eliminate this agency, but nobody would notice.

Mr. Epp: We have to consider the solicitors' time here and so forth.

Mr. Breaugh: At any rate, I think we could probably adjourn for this afternoon unless we wanted to go in camera and do some more briefing and deal with this matter later.

Mr. Chairman: We might as well use this afternoon to finish up our briefing.

Mr. Edighoffer: We want to reschedule.

Mr. McLean: Mr. Chairman, this Friday there is supposed to be an in-camera meeting to review recommendations from the Animal Care Review Board and the Ontario International Corp. Why could we not meet them at 10 o'clock on Friday morning?

Mr. Breaugh: First we have to find them.

Mr. McLean: We could have somebody here from the committee in two days.

Mr. Breaugh: Do you think the Solicitor General (Mr. G. W. Taylor) could find them in five days?

Mr. McLean: I have no idea.

Mr. Epp: Is the Royal Canadian Mounted Police looking for them?

Mr. McLean: That appears to me to be open. There is no point in meeting Friday morning if we do not have this board to review, which is on our agenda.

Mr. Chalmers: I think Dr. Secord will not be back by then. I believe Mr. Haas and perhaps at least one other member of the board may be available. There are only four altogether. We could probably get two by Friday.

Mr. Breaugh: Okay, let us put out an APB on those guys and see what happens.

Mr. Chairman: Is it the wish of the committee that we reschedule this at 10 o'clock on Friday morning?

Mr. Epp: The RCMP always get their men but the Solicitor General cannot even get them to the committee.

Mr. Chairman: All right, that is Friday morning at 10 o'clock. Do you think there is a good chance of being able to locate these people by that time, Mr. Chalmers?

Mr. Chalmers: Yes, I do, sir.

Mr. Chairman: All right, thank you.

Mr. Breaugh: And you might notify the Solicitor General that the committee is not amused.

Mr. Chairman: Maybe that is something that should come from the committee itself.

Mr. Breaugh: The committee being not amused. Perhaps the chairman might take that up with the Solicitor General.

Mr. Chairman: Whatever the committee wishes.

Mr. Epp: The committee wishes.

Mr. Chairman: Good. Thank you, gentlemen, you are placed in an awkward position. Thank you for coming in and assisting us with the problem.

Mr. Watson: I think there is one lawyer trying to get other lawyers off the hook here. I really sense that, Mr. Chairman.

Mr. Chalmers: Thank you, Mr. Chairman.

Mr. Epp: We will not mention the chairman's name.

Mr. Chairman: No, we will not mention the chairman's name, especially when we are on Hansard.

Mr. Epp: We can go home now.

Mr. Chairman: Seriously, does the committee wish the chairman to do anything?

Mr. Breaugh: Yes.

Mr. Chairman: Correspond or telephone?

Mr. Breaugh: Oh, I think you had better correspond on this one. I believe the committee deserves at least an explanation from the Solicitor General as to why this agency was not before this committee.

Mr. Epp: I think you should use the strongest terms possible. As Mike said, we are not amused. We are very dissatisfied with the fact that they knew last Thursday or Friday that they were not going to be here. They never bothered phoning or anything.

Mr. Edighoffer: When you wrote to the chairman did you send a copy to the Solicitor General?

Assistant Clerk of the Committee: Yes.

Mr. Edighoffer: Then I think we should write to him and ask what the H--- is going on.

Mr. Chairman: Is that fine over there?

Mr. McLean: Sure.

Mr. Chairman: All right.

Mr. McLean: I do not care if Mike Breaugh drafts the letter.

Mr. Epp: You might care after you read it.

Mr. Watson: I do not think it is very considerate of him. We have moved dates. We have never pushed. If somebody has a good reason why he cannot be here we would shunt around, but why not let us know?

I do not know what time the rest of you got up this morning but I know that Mike Breaugh did not appreciate being here at the time he had to come in this morning.

Interjection.

Mr. Epp: I think it is just the attitude, the flippant way in which they are dealing with a legislative committee. They say: "Look, it is not important that you be here, Frank Wilson. We are going to have a little meeting this afternoon with the minister and the deputy minister."

Mr. Chairman: All right. If we are all through with that we can go off Hansard and carry on our briefing in camera.

The committee continued in camera at 2:36 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
ONTARIO INTERNATIONAL CORPORATION

THURSDAY, SEPTEMBER 6, 1984

Morning sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)

VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)

Breaugh, M. J. (Oshawa NDP)

Charlton, B. A. (Hamilton Mountain NDP)

Cureatz, S. L., (Durham East PC)

Edighoffer, H. A. (Perth L)

Epp, H. A. (Waterloo North L)

Mancini, R. (Essex South L)

McLean, A. K. (Simcoe East PC)

McNeil, R. K. (Elgin PC)

Rotenberg, D. (Wilson Heights PC)

Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Assistant Clerk: Decker, T.

Staff: Eichmanis, J., Researcher, Legislative Library

Witnesses:

From Ontario International Corporation:

Bros, M., Legal Counsel

Littzen, K. A., President

Young, J., Chairman

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, September 6, 1984

The committee met at 10:13 a.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
ONTARIO INTERNATIONAL CORP.

Mr. Chairman: Seeing a quorum in the room, we had better proceed and get the morning started. I am sure some of the other members who are later sleepers or busy on the telephones will be here shortly.

For Hansard, may I state that we have the Ontario International Corp. in front of us today. Perhaps you could identify yourselves, from north to south, for Hansard and for the members. Do you have any kind of written brief?

Mr. Young: We may be passing out a few items during the course of the discussion but we do not have a written brief as such.

Mr. Chairman: Right. Could you introduce yourself, with your position in the corporation, then your spokesman could carry on.

Mr. Young: I am the chairman of the corporation. Since its inception and until last Friday I was also the president and chief executive officer. I am Jack Young and I had the privilege of being the founding president and chairman. After four years plus some time I relinquished the presidency last Friday and Mr. Ken Littzen, who has been the vice-president of the capital projects division, has succeeded me as president.

On my left is Mitchell Bros, the legal counsel of the corporation. He is probably no stranger to the committee. He normally spends his time in the legal department of the Ontario Development Corp. He provides legal services for Ontario International Corp. and acts as secretary to our board.

Mr. Chairman: Thank you. Do you have some type of statement to make to us?

Mr. Young: I can. I would like to tell you, Mr. Chairman, that we have about a 20-minute slide presentation. If the committee wishes we could schedule it for immediately after lunch, if you intend to sit this afternoon. It is a rather interesting presentation on the global activities of the corporation.

We did not bring it this morning but we could have it here for this afternoon. The committee might find it interesting.

Mr. Chairman: I think it would be a good idea if you could schedule that, please.

Mr. Young: Right. Other than that, if you would like me to make an opening statement on the general objectives of the corporation I could do that.

Mr. Chairman: Include more than general objectives; perhaps general workings and then maybe the members will come in and start asking questions.

Mr. Young: Yes, all right.

We are, as you know, a crown agency of the Ministry of Industry and Trade. I report to the Minister of Industry and Trade (Mr. F. S. Miller), and, for administrative purposes, through the deputy minister and assistant deputy minister. We draw from the ministry itself services such as personnel services and accounting services. We have not, up until the present time, handled our own funds.

We have a mandate to assist the export of Ontario engineering, architecture and services that are related to capital projects. Most government trade programs are aimed at the goods-producing sector. When we think of trade we think mainly of either the export of resources and resource materials or manufactured goods. The average person, I think, does not recognize that there are a great many services that can be exported. Those exports can attract the sale of products along with them.

In the capital projects area there is an enormous worldwide market. In the market that is accessible to Canada, that is excluding the Comecon countries, the market is probably around \$100 billion a year.

There is, unfortunately, quite a scarcity of hard information and hard data, either from Statistics Canada or anywhere else, as to just exactly how big the market is, and how much of it Canadian and Ontario companies are getting. We have been able to establish that the consulting engineers who are the pathfinders of Canada in the export of services market are probably earning about 20 per cent of their total income in offshore activities. Architects are doing something less than that.

The other group of our constituency of the private sector is management consultants, contractors, constructors--constructors are different from contractors in the sense that they will assemble premanufactured plants, and so on--and consulting planners. That group are considered to be our constituency because they essentially deliver services.

We have established that they are probably earning something between \$300 million and \$500 million a year in fees. Fee income is important to produce professional jobs, not just jobs for professional engineers and architects but for draftsmen and all the people who work in those disciplines.

Far more important can be the products that can flow to projects that are designed by these people, if they are designed with the Canadian market in mind and the capability that exists in Canada.

10:20 a.m.

Ethical designers, of course, with a responsibility to their clients, design with the idea in mind that the client should be able to source as broadly as possible. It is in his best interests to buy in Switzerland, Great Britain or wherever he can get his best products the cheapest. But if the design is not such that Canadian industry can meet the specifications, it is for nothing.

We face a very serious problem when we, as Canadians, go out to explore that market and to attack it, because the big players, Great Britain, USA, France, Japan, Italy, Germany, Belgium, Holland, and so on, many of these countries have been in the colonizing business for centuries, and they have been building strong desire lines between the countries where they have established their presence and home base.

For instance, the ties between Great Britain and India are well known. It is much easier for the Indians to deal with the Brits because the standards that exist in the electrical industry and many other industries were put there by the British in the first place. In francophone Africa, the ties are very strong to France. In the Orient, in the Middle East or in the Far East, the Japanese and the Koreans are extremely active.

The other problem that exists in making a serious dent in the market is that when Canada goes out, we go out more or less as babes in the woods, but also our companies go out individually. They go out with a little bit of government support, but it is not Canada incorporated going out there. This is what we are up against. When we go out to compete against a Japanese company, we are competing against Japan incorporated. The government of Japan is financing the project. The government of Japan is making sure that the turnkey capability is all there. The government of Japan is wheeling and dealing with the government of the other country, of the host country for the project, and these situations are very hard to compete against.

It was out of the realization that this problem of the promotion of international capital projects was not being appropriately addressed that in 1980 the government of Ontario put a line in the throne speech that said, "We shall establish an Ontario Export Development Corp." That was the name which was intended to reflect what we do. I was called by the minister to discuss whether I was interested in being a part of the founding process. I suggested to the minister that name might cause some concern because of duplication with EDC, the Export Development Corp., and that while I understood what the government was trying to achieve, I felt that a name like Ontario International Corp., which was more generic and less specific, might be more useful. That is how the name came about and the mandate was then developed.

One of the very first things we had to decide is how far the corporation would go to marketing the expertise of the government itself vis-à-vis the expertise of the private sector. One has to stop and think for a minute that a great deal of expertise does lie in government itself. The fact is that education is almost

exclusively, not entirely, a function of government, the delivery of health care services is very largely a function of government and to a lesser extent the management of our environment is the responsibility of government, even though most of the tools and equipment used are provided by the private sector. There you see the combination of the two expertises coming together.

Because I came out of the private sector and had some views of what government's role ought to be in the process, I recommended that the mandate ought to be one of making available all the expertise that exists in Ontario, whether it be in the private sector or the public sector, the same as Japan Inc. and Italy Inc. were doing, except that we would try to do it in such a way that the private sector would play the lead role.

Not having a mechanism through which the private and public sectors could marry themselves into a contractual consortium, we felt the first step was to make some efforts in the foreign markets along those lines. We would assist the private sector to find projects, assist it to gather up the expertise to do them and, if a component of expertise that existed in government was required or would be useful to the securing of a certain contract, then we would be the agency or agent through which that was brought into the picture.

That is essentially the way we have operated since day one. I can tell the committee that we were initially met with quite a bit of eyebrow lifting; I can put it that way. If you have had any experience with the Consulting Engineers of Ontario you will know that, while they are quick to come to government when they have problems, many of them also feel that government should not interfere in their process of getting business and they do not want government competing with them. There was some feeling that, "Here comes another organization to compete with us," and it took a little while to disabuse them of that notion and to give them evidence that we were there in fact to assist them and not to compete with them.

The programs we have developed, which we can talk about a little later, have all been developed with them in conjunction with our constituency. Again I will enumerate the constituency for you. They are essentially the consulting engineers, the architects, the management consultants, the consulting planners, the contractors and the constructors.

There is a group of highly specialized consulting types who do not precisely qualify for the nomenclature of consulting engineering. That is controlled by the consulting engineers' association. There are many engineers who are consultants who are not specifically consulting engineers, and that is another group.

The first thing we had to do in the earliest days was to find out who our constituency was, where it was located and how we could make contact with it, and we spent the first year doing just that: meeting its members on their own ground and finding out what they felt their needs were, how the Ontario government could interface with them and what programs they felt would best fill their needs in the foreign market.

We found there were about 380 companies in total that could benefit from services and that actually registered with us. We have produced matrices that list all the expertise of these companies. The largest group is the consulting engineers, about 125 or 130 of them. At this time the list has grown to about 450, something like that, and I can tell the committee that of the 450 there are probably 250 or more who are actively involved with us and who are actively receiving services in communication and working directly with us.

So over the years we have not only catalogued the private sector capabilities, we have also, in parallel, catalogued the public sector capabilities that are available, and we have done this by visiting each ministry of government and each agency, including the Ontario Science Centre, which has very interesting exhibits that caught the imagination of almost all the scientific world. Those exhibits are marketable.

Another good example is the remote sensing capability of the Ministry of Natural Resources. It is second to none in the world. I can give you examples of where it can be used. In the Ministry of Transportation and Communications, for instance, there is the maintenance management system for roadways, which is one of the best in the world. That is marketable as a system, and it can be marketed through private sector consultants.

We have not done a complete job yet, but we are well on the way to cataloguing most of the expertise that resides in the Ontario government.

10:30 a.m.

One might ask at this point where the federal government comes into all this. I suppose if one wanted to say this, OIC perhaps ought to be a federal agency, except if it were it might be large and unworkable and you would have all the interests of the various provinces to work against each other.

I think the notion that there should be a federal OIC is all right in theory, but in principle the smaller, closer relationship we have with the Ontario consultants seems to be about the right size.

We do, however, interface very closely with all the government agencies of the federal government, the foreign trade posts, External Affairs. We do not go into an area without talking to them first. After all, I do not know, but maybe Ontario is paying 50 per cent of the cost of our foreign posts, so we use them to the fullest extent.

That is a little background, Mr. Chairman. I do not want to pontificate too long, but I want to give you an idea of where we come from.

Mr. Chairman: Good. Thank you, Mr. Young. I think Mr. Epp has a leadoff question.

Mr. Epp: When you were speaking about the Japan

corporation--the government having an umbrella there--you spoke of it with some envy, it seemed to me; they have something that maybe we should emulate. Yet when you were speaking about a Canadian international corporation, you suggested that maybe it would be too large because of the various provinces, yet they are representing a population there.

I know the country geographically is much smaller, but obviously they have state governments and they are very successful, yet you feel that would not probably be workable in Canada. It seems to me to be somewhat contradictory.

Where does the real difference come in where you do not think it would work here, whereas it does work there very effectively?

Mr. Chairman: Maybe he has changed his mind as to the workability in the last two days.

Mr. Epp: I am sure not. Jack is a very consistent fellow, and I am sure the change of the government in Ottawa would not change that at all.

Mr. Young: Let us take Britain as an example, perhaps, instead of Japan. I know a little bit more of the system in Britain. It is exactly the same example.

There are no provincial governments in Britain, as you know. There are enormous county councils with 200 to 300 representatives on them, but essentially the foreign trade of Britain is looked after by the government of the United Kingdom; so you do not have provincial competition for roles in the export market.

The British Council, which is an instrument of the Foreign Office, plays an enormous role in the exporting of services and embraces totally the expertise that I am suggesting is exportable from Britain. They have organizations that are government and private sector unions, entities that are specifically created to meld the private and public sectors to interface with the foreign market.

At one time, and not too long ago, when the Department of Industry, Trade and Commerce was not as confused--if I can use that word kindly--a system it has been lately with the merger of the trade commissioner service and External Affairs, when those were clearly separated, there was an office of overseas projects in the department. That functioned very much like OIC, but then for some curious reason it was disbanded and it did not come back.

To answer your question specifically, Mr. Epp, I think there has to be a stronger role for government. Some government, and I think it ought to be the federal government, has to take hold of this question of how we compete with Japan Inc., Britain Inc. and so on. We cannot be going out there looking for turnkey projects, because we have to have the input of the Export Development Corp. for competitive financing. That is the number one problem we see and the number one problem we deal with.

We can find projects and we can find the superior expertise to do them. We have no problem with that. We have built an enormous country here. We have built infrastructure from coast to coast. We have built hard-rock mines, transportation services, power generating plants and environmental protection. We can do almost anything in this country, and we can take that to other countries, but not without competitive financing and the interface of government to government we really need.

Mr. Littzen: Would you like a specific example to refer to your question? Question 5 on your list for the Ontario International Corp. is, "What is the project that will bring approximately 27,000 man-years of work in Ontario?"

I think we have to go back in time. The project was four by 200-megawatt thermal units for India for a plant called Kahalgaon. Concurrent with our attempting to get financing for that project, for the consortium that we put together, which was called Cantherm, there was another project called Chamera, which was a hydro project where most of the work would come from Quebec.

The federal authorities felt in their wisdom that they would put \$300 million of Canadian International Development Agency financing into the Quebec project, which is grant aid. The equipment cost of that project was approximately \$300 million, with the balance being sand and gravel, as we call it, for a hydro plant. The residual for Ontario out of the Kahalgaon project would have been 27,000 man-years of work, but it did not go ahead. The foot-dragging allowed the Russians to move in and take that project.

We are now looking at a new project for India for two by 500-megawatt units with the same group, and we have reason to feel that there is a new mood in attempting to finance the project. That will amount to in the order of 25,000 man-years of work for Ontario.

Mr. Epp: You think it will go ahead now.

Mr. Littzen: We believe there is a very good chance it will go ahead.

Mr. Rotenberg: Whose foot-dragging was it?

Mr. Littzen: I hesitate to say that with two projects going at the same time, we might have received more attention in Ontario. The foot-dragging was with the federal external authorities and with the Export Development Corp.

Mr. Epp: That has not changed with the new Prime Minister being from Quebec.

Mr. Littzen: I will say nothing more than that. I do not know the answer.

Mr. Young: In fairness, we ought to say that the Chamera project, which was the hydroelectric one, was probably in the pipeline before the thermal power one was. As you know, hydro

power is no longer a big priority in Ontario. While there is expertise here in hydro power, we have pretty well used up our hydro sites. Quebec is very strong in the hydroelectric mode and Ontario is very strong in the thermal power mode as well as nuclear.

The Indian government is kindly disposed towards our consortium, and with the examples of Nanticoke and Atikokan to show to the world state-of-the-art thermal power plants, we are very hopeful and positive about getting the substitute project on stream.

Incidentally, you might well ask, how could a little outfit like OIC have any impact on a project of that size? I think it is fair to say that Mr. Littzen was at that time an employee of one of the partners in the consortium. He may not want to tell you this, but on one of my Middle Eastern trips I went on to India to establish for myself the bona fides of the project. I met with the Canadian high commissioner there and the consortium's agent. I met with the World Bank and people in India to see what their projections were for thermal power in India and what they were expecting to spend over the next few years.

10:40 a.m.

I came back very much reassured that coal-fired thermal power was a priority in India, that it was an immediate priority and that there would be many projects financed by the World Bank over the next little while. I came back with a new determination to see what we could do to help the financing of this corporation.

As a result, we assisted Cantherm to meet first with our minister, second with the Premier's office and third with the Honourable Gerald Regan and the Export Development Corp. in Ottawa to turn them around and get them off this negative kick on concessional financing. It is all very well to say: "We cannot afford to give concessional financing. We have just given \$300 million to Chamera." Unless you are prepared to meet the market in financing, you might just as well stay home in the first place.

We did eventually get a letter of intent from EDC for the Kahalgaon project, but it was too late. The Russians had been there, they had done their job and had got it. However, the sincerity and determination with which the consortium went ahead in the first place, supported by the Ontario government and by the federal government eventually, led them to say: "Okay, you lost that one but there is more coming. There is one right behind it." That is what we are into now. We are hoping that we are going to be successful.

Mr. Breaugh: I have a couple of areas I would like to discuss. First, I am very much interested in the nature of the task you have been given, which is not an easy one. For starters, I would like to get a little opinion from you about what we are doing in this particular field.

You mentioned the Japanese and others in your opening statements. As one who kind of follows that, I am aware that we

are somewhat neophytes in this field. There are other nations in the world that are very sophisticated at protecting their own markets and expanding into other nations in the world.

I would like to get some sense from you about where we are in that spectrum of people trying to analyse a whole worldwide market and world sourcing of parts for cars and what appears to me to be a little more sophisticated form of protectionism--that is what the old-fashioned word would be; I do not know what the new-fashioned word for it is. Certainly there are markets in the world that we cannot get at.

I have been kind of serenaded by industrialists who tell me that to do business in Japan is something to behold. There are a whole new set of rules to be learned before you can even begin to function. I would like to hear a little bit of analysis of where we are at in that regard, and maybe we could pursue a couple of points off that.

Mr. Young: One of the things we have done in our plan is to identify what Ontario's strengths are and to use them first. There is not much point in pursuing projects for which we have second-rate skills. We have identified the areas that we are good at and do not have to take second place to anybody. These are the group of projects in which we feel we can do well.

As I mentioned earlier, it is a simple fact that much of the hardware that is going to go into those projects, which is the ultimate target, is not made in Canada; it has to be sourced outside of Canada. But to the extent that we can we source it in Canada. A good example is the thermal power plant; I would say we can source at least 60 per cent of that here. Boilers are made here, turbine generators are made here, pipe is made here and valves are made here. There are a lot of things that can be made here.

The most serious problem--and I am going to turn this over to Ken because, having been in the business himself, he will be able to tell you more accurately what the problems are of getting the components into the project--the biggest single thing is cost. Canada is just not cost-competitive in many of these things.

We just had a meeting with Ontario Hydro, where a Canadian consortium lost out on an international bid for electrical apparatus, and the numbers were absolutely ridiculous. Ken, maybe you would like to follow up on this point.

Mr. Littzen: In that particular case it was a consortium put together by Ontario Hydro to go after a project in Bangladesh. To give you an example of how badly the prices were out of line--and I still believe they were trying to compare apples and oranges--on one segment of the electrical equipment, the low bid was \$133,000; the Canadian bid was \$2,350,000. That is an example of not knowing the market. I frankly do not believe that people like Ontario Hydro should be in the business of putting together a consortium, and I think they probably are out of that business now as a result of this exercise.

The private sector can very easily put these projects together. Jack is right about not being 100 per cent competitive in Canada, but we are competitive in certain fields. He mentioned boilers, for example. One of the organizations in Canada is an offshoot of an American group, Babcock and Wilcox, but all the exports of boilers come out of Canada. Combustion Engineering is another in the boiler field in which a lot, if not all, of the export of boilers comes out of Canada.

With respect to turbines, there is only one heavy turbine manufacturer that can address the problems, and that is the BB Howden organization. Given the lack of a market here in Canada, it is dependent on the export market; so it does have a mandate to deal with it and it is competitive in certain sizes of equipment. When you come to pulp and paper mills, for example, we are very competitive. In the forestry industry we are very competitive.

But when you put together a total package, you are going to have to go outside the country because we do not have a domestic market to cover it. For example, the rotating parts of a turbine of a size that is not made here will have to come from Switzerland, France or some other country; so they have to be integrated and become a part of the consortium. Japan Inc. does it all at home because it has the domestic market to deal with it. I do not know if that answers your question.

Mr. Rotenberg: I have a supplementary on that just for clarification. I realize the bid was very far out; you say it may have been apples and oranges. But in some of that competitive bidding internationally, is a government subsidy built into the bid before the bid goes in from other countries, which would give our competitive bid a little problem?

Mr. Littzen: Very often there is, but we know what those are. We are not naïve in this market; we know what it is all about. We also know that we have a CIDA type of grant aid that can be added in, as in the Chamera project, and we play the same game as they do. I think it is a matter of organizing the financing and taking advantage of all the pots as opposed to having them all operating separately and in isolation.

Mr. Rotenberg: Can we be competitive in the government subsidies in these kinds of things?

Mr. Littzen: In certain industries, yes; in other industries, no. The export market is not for everybody.

Mr. Young: Part of the problem, if I may just add something, is that once you start talking about concessional financing or something less than the consensus rate, you are into what we call a section 31 decision on the part of the Export Development Corp., which is a totally political decision. The decision to allow concessional financing has to go through the political route in Ottawa, and if you are lucky, okay.

Mr. Breaugh: There are a couple of points I would like to pursue. Much of what the Japanese do is to take what I suppose could best be called an advantage in technology and really exploit

it. They appear to be very good at keeping communications going with their industrial sector; so there is a fair amount of what I would call protection of their own market.

There is also a tremendous explosion of being able to exploit new technology in a hurry. Our private sector is in some instances pretty good at that now, but in a lot of cases we have plants that have not changed very much in 30 or 40 years; they have never had a reason to change their technology. Those reasons are now becoming apparent. They are competing with plants they have never seen in their lives and with a market they have never worked before in their lives.

10:50 a.m.

What are you doing to try to get us caught up on that world-level technology? For example, I have a steel plant in Whitby that has just changed its technology somewhat because it could not put a product on the market to compete with those of Japanese steel companies. Of course, the Americans have a tremendous number of decisions to make in the near future about the whole steel sector. If it does not change very quickly, there is not going to be any market there for it.

What is the flow of information, regulation, protection and technology? Have we had much generated in that regard?

Mr. Littzen: I think it is important to understand that Japan incorporated does not have greater technology than we have available here in Canada or have access to through the United States, Great Britain or one of the other countries. We do have the technology available. The problem has been that it has been in isolation in various pockets.

In the case of the steel plant you are talking about, the Japanese will go out and do a turnkey plant, as opposed to the consulting engineer. For example, Hatch Associates Ltd. here in Ontario have an enormous plant in what we will call southern Africa. They brought that technology along. They have developed further technologies that have been used in other areas in North America--for example, in Quebec--but we have not organized the equipment sale at the same time the way the Japanese do with their through-put type economy.

Hatch Associates, as one example again, are in touch with the industry on a day-to-day basis. Since they work in a consulting engineering, professional manner, they do not feel the need to go out and sell equipment. In fact, it is against the rules of the profession. Therefore, we do not have the same availability.

What have we done? We have said to people like Hatch Associates, "The world is changing." We are talking about turnkey projects these days. As you know, the domestic market for engineering has dried up considerably. They are now more prepared to deal with the manufacturers, go into consortiums such as the Cantherm Heating Ltd. thing that we put together. We believe in future we will be able to form more consortiums--we have formed

some others, by the way--that will assist to get this technology out of the consulting management firms and into the industrial area.

Mr. Young: What has happened in the process is that our constituents have become bit players rather than turnkey players because we just do not have the total package. Of the total package, the actual construction is one of the places where we are the weakest. This can be compensated for by joint venturing with other jurisdictions in the host country. In most cases it is required anyway.

In Saudi Arabia, under the new rules--and that is the market I am most familiar with because I have been going there personally--any company set up to do a project in Saudi Arabia has to be 51 per cent Saudi owned. If you are going to do a joint venture with a Saudi company that is capable of carrying a project, with your help of course, 51 per cent is Saudi owned. You might be providing 80 or 90 per cent of it, but as far as the books are concerned, 51 per cent is Saudi.

To get away from the big turnkey projects for a moment and give you a little idea of the scope, we are negotiating right now for some small turnkey hospitals. When I say small, nothing is small in Saudi Arabia. If I tell you the total of these projects is about 250 beds, we are not talking about an enormous hospital. We are talking about 250 beds, but I am also talking about \$250 million, which is a very significant project.

We have been able to marshal all the resources to address those projects except the civil construction. There is civil construction capable of doing that in Saudi Arabia. But in addition to putting those three small hospitals in place--and they are all in one area--they want a management function in perpetuity, at least for the first 10 years. They want the procurement and they want professional assistance. In other words, they want doctors, nurses and hospital management and they want that into the foreseeable future.

We are not capable of moving 400 people over there to do this work. Korea is, Pakistan is and the Philippines are. So we have to work with recruiters in the kingdom who can recruit the mass of labour that is required and we have to put in the leaders. Essentially, we start with four. We start with the director of the medical side, the director of the nursing side, the hospital administrator and the project manager. Then we put in the next layer of management as well.

There are lots of opportunities, believe me. I can review some of them later for you. We are not short of opportunities. What we are short of is the total package. As a result, we have become bit players. I can name quite a number of companies that individually have done exceptionally well, but in the total spectrum of exports it is a drop in the bucket.

Mr. Littzen: Can I just elaborate on the statement that was made about contracting? In the latest issue of the Engineering News Record, in listing the top 250 contractors in the world, you

have to go down to 127 before you come to a Canadian firm. It is the only Canadian contracting firm listed. That happens to be Poole Construction out of Calgary. That gives you an idea what we are up against.

You might say, "Why bother?" We have some markets that the rest of the world, Italian, French, German and British contracting firms, would like to get at, as well as people like Jones in the States. We think about a consortium with other countries, if we are prepared to accept half a loaf--and I think we are quite prepared to do that--and using contractors from other countries in consortium to go after work in the Third World.

We have talked to the Italians. There is some interest there. They are a little worried about their constituency and their market. I think we will come to it in due course.

Mr. Epp: I guess what you are saying is what we should have in Canada is something like a Bechtel Corp.

Mr. Littzen: We have a Bechtel Corp.

Mr. Epp: I know, but that is foreign controlled. What you are talking about is a Canadian one.

Mr. Littzen: Exactly.

Mr. Young: We do not withhold services from anybody who is going to create jobs in Canada, but we prefer to support Ontario-based and Canadian-based companies.

Mr. Breagh: One of the problems I have come across is this. We have an auto glass manufacturer called Duplate in Oshawa. Oddly enough, they sell in the Japanese automobile market. They have plants there. One of the things they thought was unusual and was a problem for them is that we have a funny idea in our private sector that if I set up a car plant, I make cars for 20 years, I change the chrome and the plastic every year, but basically I set up a production facility and run it in much the same way for 20 years.

They have been telling me one of the things they had some difficulty getting used to is that you can never rest on your laurels. In that market the rules of the game change, the technology changes and personal management styles change. Everything is in constant flow and development. They had some difficulty responding to that. They are now using some of those techniques in their Oshawa facility. They virtually changed their whole production facility in the last few years.

Is that one of the problems our Canadian manufacturers have in competing in world markets? I do not want to be negative and say they have not kept up with things, but it does appear to me there is almost a management style that has not quite hit our shores yet.

Mr. Young: That would not be true in the communications industry and it probably would not be true in the transportation

industry. It probably would not be true in the hard rock mining industry where our techniques and expertise are state of the art. It would not be true in thermopower development.

11 a.m.

If we are going to pursue capital projects in which we are lagging, my suggestion is that we are better off to concentrate in the areas where Ontario has strength, where Canada has strength, and is recognized for it.

Probably the best example I can give you--I do not know if any of you has tried to call a number in Saudi Arabia lately, but you can dial it more easily than I can call here from the Westbury Hotel, and that is state of the art. The telephone is free in Saudi Arabia; you do not get billed for the telephone in your hotel, it comes with the room. That is Bell Canada. Bell Canada's first contract out there was for \$1.1 billion, as the leader of a consortium that handled about \$7-billion worth of communications installation.

In the second round, the second contract, the second invitation to tender was of a magnitude that Bell again, as the leader of the consortium, was to be in for something like \$1.6 billion, which was the initial figure, and the Saudis started to scream foul. They said: "Holy smoke, you are shoving it to us. Now you have your system in the front door, we are going to pay."

There was a long, long pause of several months when negotiations were going on and they were trying to get other people to substitute for Bell's expertise. I believe even the government of Canada was approached and told: "Look, you have to put another consortium together. We cannot pay \$1.6 billion."

What it came down to was that they wanted the quality, the state of the art, that Bell Canada International could deliver, but they did not want to pay for it and Bell hung tough. They said, "If you want the same thing you got the first time, if you want more of it, this is what the bill is." Eventually we got it, but by hanging tough.

If you are good enough and you want it badly enough, you do not have to diddle your prices around; you can get what you want.

Mr. Breaugh: One of the other areas I wanted to pursue with you comes out of that. I happen to know some people who work for Bell Canada there. Much of what our briefing notes have to say about your activities points out areas where personnel go to another country and serve some purpose, but the people I talked to who went to Saudi Arabia came back with not a whole lot of happy feelings.

It indicates that maybe, in a theoretical way, we could do that. We have lots of young people coming out of university who are not going to get a job here. On the face of it, it seems quite logical that there are lots of places in the world where a consortium could put together a deal where their skills would be

extremely valuable and where they could at least get started in their careers.

The fly in the ointment appears to be that they are dumped into a cultural situation, a language situation, a lifestyle which is pretty alien to them. Many of them said, "The money was good and if I were out of work here, I would love to go there and work for six months, but I want to get the hell out of there as quickly as I can." How much of a problem is that?

Mr. Young: I would say it is very definitely a problem. One of the things in which Canada has not been competitive until recently--it is getting better now--is in the tax breaks that were allowed for earnings in that kind of market. Up until recently you had to dispossess yourself of a domicile here in Canada for a minimum of two years in order to get tax exemption. Whereas a lot of young people might have gone for a year, two years was more than they wanted to bite off the first time.

It was interesting, when I visited New Zealand and talked to them and learned about their export techniques, you would not believe how that small country has saturated the southeast Asia market in agricultural projects, for instance. Everything that a consulting engineer earns overseas after the 59th day is totally exempt from tax. They are competing and knocking the hell out of the Australians in the process, because they can write sensibly priced contracts on that basis.

Let us take the Saudi situation and use that as an example. The climate is extremely hostile; you have to live in an expatriate ghetto when you get there; you have to do without a lot of amenities including a drink and a Playboy magazine, if you consider those priorities. But there are also compensations, and if a person is oriented towards truly appreciating a foreign culture and becoming part of it, it can be done.

The longest I have spent in the kingdom was three or four weeks, but by that time I kind of hated to leave. The people themselves are wonderful; it is the environment that is tough. But you have to accept their codes of behaviour; you are not at home.

If you want to do business there, you have to do it their way. You have to accept the fact that when you arrive for an appointment with a deputy minister, a minister or whomever, there will probably be five or six other people in the room talking to him at the same time. If you are the priority that day, you will get to sit at the front. While you are talking to him, somebody at the back will say: "Will you please speak up? I cannot hear what you are saying." If you can cope with all these things, you can do business. But it certainly is strange and the shock is quite great.

One of the major problems, however, is that when the Saudis issue an invitation to put in a proposal--I will give you a real example. There were three areas of the country that did not have official plans on them. Each of those three areas comprised about one twelfth of the area of the kingdom; so we are talking about a quarter of the country broken into three parts.

They wanted a basic, overall master plan for those three areas, and we were to bid each one of them separately. They gave us a list of the planners they wanted. There was a list of 10 master planners, two land use planners, an economic planner, a social planner and so on. Each of them had to have 10 years' experience plus certain degrees.

In this country, if we were putting together a package that required 10 planners, we would evaluate each person on his experience, his interests and all these things. As Mr. Epp knows, I spent some time on school boards. Years ago trustees used to hire teachers. I know damned well there are some teachers who have had 19 years' experience and there are some teachers who have had one year's experience 19 times. The same thing applies to planners.

However, the Saudi mentality does not allow for any of that kind of thinking. The standard is 10 years' experience, and that is the only guy they want. If you stop and think for a minute, a graduate planner with 10 years' experience and a master's degree is probably about 35 or 36 years old and has a wife and a couple of children out in the suburbs.

When he is recruited for this opportunity, he goes home at night and says, "Honey, guess where we are going." He tells her the story. "We are going to make twice as much money as we are making now, and it is tax-exempt. We are going to be out there for two years, we are going to get flown home for vacation and we are going to have this wonderful change in our life." She says, "Guess where you are going."

That is too much to cope with, and that story is repeated hundreds and hundreds of times when it comes to putting young professionals out into the market. It is not limited to Saudi Arabia; it just happens to be that it is one of the toughest places to go.

Part of it, I guess, is our willingness to cope with this market, the willingness of Ontario and Canadians to become more world-oriented, more export-oriented. We have had it pretty good at home. We have had a long history of great opportunity here, building the infrastructure of this country, with lots of jobs and lots of opportunities to be engineers and to be architects. But the well is running dry and we have to go outside to get more of it. We have to be prepared to make sacrifices in the process.

Mr. Chairman: Excuse me. I would like to follow up on one of Mr. Breaugh's questions. Would it be possible for you to lead us through, slowly and broken down, one of those 250-bed hospital projects and tell us what your role is, whether you are going to have nurses from here and so on right down to the nitty-gritty? You need 500 catheters, you need 200 nurses, you need 250 beds and test tubes and so on.

Can you lead us through that slowly and tell us exactly what your role is? I presume you do not go out with your cheque book and start buying 500 catheters.

Mr. Young: No.

Mr. Chairman: Could you lead us through what you do with regard to the nursing, the catheter manufacturer and so on?

Mr. Young: If you want to use that as a case history, it is probably a pretty good one.

In the process of determining what expertise lay in the Ministry of Health--

Mr. Chairman: Excuse me. Go away back to the beginning. How do you find out about that?

11:10 a.m.

Mr. Young: I was in Saudi Arabia on other business. The first thing we do when we go to a country is to check in with the embassy and let them know we are there. We had a new ambassador go to Saudi Arabia about three years ago. He came to visit me before he went there; so I knew him on a name basis. When I made my first call in Jidda, I went to visit him to let him know I was in the country.

On the last day I was there, I was about to check out of my hotel when I got a phone call to call him. It was about 3:30 in the afternoon. While he had left for the day, I was told there was a Saudi sheikh who wanted to get in touch with me and I was to call a certain number.

I did and the answer was, "Mr. Young, we understand you are from the Ontario International Corp. and we would like to talk to you." I said, "What would you like to talk to me about?" He said: "We are in the business of managing hospitals and of providing catering services and laundry services to hospitals. We are looking for somebody to work with in the development of some hospitals here in the kingdom."

I said: "Fine. I am going out on a plane at two o'clock this morning"--it was about three in the afternoon--"but I have time between now and then." He said: "Mr. Young, pack your bags. We will pick you up in a few minutes and bring you to our offices, and we will deliver you to your plane." I had all evening with them.

As it turned out, that company was the third largest private sector enterprise in the kingdom. They have 120 companies under their umbrella. One of the things they do and do well is to cater the food to some 45 hospitals, do all the laundry services and provide some maintenance management facilities.

After an evening of discussion, I realized there was an opportunity for us to put the professional expertise, the hospital design expertise and the hospital design and engineering of the infrastructure together with their ability to deliver the mundane services that would be very difficult for us to do. In addition to that, the company also has several contracting companies that could do the construction which, as referred to earlier, is one of our weak spots.

As a result of that initial meeting, when I came back we got in touch with the Ministry of Health. We had already started in the direction of forming a generic committee to pull together all the health care expertise that we had in Ontario and to catalogue it. We had a leg up in response to that project.

Dr. Bob Sheppard, who is the associate dean of graduate studies of the University of Toronto and a renowned endocrinologist, was the chairman of our committee. Bob has done a lot of work with Saudi Arabian officials in taking graduate students into our universities in Toronto, and he is very well regarded in the kingdom. He gave us a lot of assistance in pulling together some professional response to that project.

We have been working on it for about a year, and one of the things we are aiming to do is to negotiate the project, rather than be subjected to international tendering on it or a tendering process. In Saudi Arabia, the health projects as administered by the Ministry of Health are done on a regional basis, and the regional director has quite a bit of authority in deciding how the smaller projects will be carried out.

At this stage, we have the architects, the engineers and the space planners in place, and most important of all we have a project manager in place. We have a tentative agreement with the Saudi Arabian partner as to what he will provide in the turnkey effort. He is making the appointments with the Ministry of Health officials for us to interface with, coming into a contractual role.

OIC's role in the whole thing has been facilitatory. We discovered the project. We organized the players into a consortium. We assisted them financially to print some nice literature to put a good face forward for the consortium that it indeed has the capability to document its expertise for the Saudis. We are waiting now for the hadj, the pilgrimage to Mecca, to finish. The leader of our group is standing by to go to Saudi Arabia. I was to go with him, but I have to postpone that a bit and I will follow up after the first of the year.

Our role has been totally facilitatory and totally organizing and helping in breaking down the barriers, making it easier for them to travel. We have the kind of relationship with the Saudi embassy now where we can expedite visas. These are very difficult to get these days in the kingdom because of the Iran-Iraq war. They are very careful about who comes in and out of the country, but they know us now. They know OIC, and we can get visas on fairly short notice.

Mr. Chairman: When you came back home, you got on the phone to a dozen or 20 people and said: "There is a project over there of this kind. Are you interested in being one of a group?"

Mr. Young: That is right.

Mr. Chairman: You gathered together X companies, one of whom produces beds, one of whom produces catheters and one that can enlist nurses.

Mr. Young: That is right, but not down to that detail yet, but as far as the expertise to execute the project. The project managers will presumably become the procurement specialists, and when it comes to procuring the beds, that will come at a later time. But because we are doing a turnkey project, we will have the procurement role, and therefore the opportunity for Canada to supply as much of the material as we can will be there.

Mr. Chairman: One of these people in the consortium is the project manager, who I take it knows all that nitty-gritty.

Mr. Young: That is right.

Mr. Chairman: Exactly how many nurses, how many of that kind and have that expertise?

Mr. Young: That is right.

Mr. Chairman: You would not personally have that.

Mr. Young: No, we would not. We would not want any part of it.

Mr. Rotenberg: Could that person be someone from the private sector who is in the hospital consulting business? Or what kind of person would that be?

Mr. Young: Yes, they are in the hospital consulting business.

Mr. Rotenberg: So he would be part of the consortium you are putting together.

Mr. Young: That is right.

Mr. Rotenberg: He would be a private sector person.

Mr. Young: That is right. But all these people have done work for our Ministry of Health, and we have checked them out thoroughly; so we know that when we put them forward, our Minister of Health is able to say they have done work for us and they are superior in what they do.

Mr. Chairman: What happens if somebody screws up in their end of the consortium? Are you a troubleshooter at that point?

Mr. Young: We would have to be. We would not have a contractual responsibility as part of the government of Ontario, but we would have an embarrassment to face if we do not produce.

Mr. Breaugh: Bring him back here and make him deputy minister.

Mr. Chairman: Go ahead, Mike.

Mr. Breaugh: Could I pursue a couple of points where we

seem to have run into difficulty? One of the problems our industry has is that we are in a bit of a mindset about how you go about doing business. The General Motors-Saudi Malibu thing is probably a good example. Our auto producers like to sell cars and they sell them on the North American market and that is what they do. They forget that in other places in the world, there are not service stations on every corner and people do not always put things like oil into automobiles. In that instance, to be fair to General Motors, it appeared to me that the Saudis were about as good at buying cars as my mother-in-law, which is not too good. But the whole thing wound up being a bit of a mess.

Do you see it as part of your role, when a business opportunity such as this comes up, to go to the private sector and say: "Listen, you have to do more than just sell them your product. You have to understand that in their country, there are different sets of circumstances"? In a case like that, would you try to go to a country such as Saudi Arabia and say to the Saudis themselves, "When you buy that kind of a product, these are some of the things you are going to have to have to go along with it"? Do you give advice at both ends?

11:20 a.m.

Mr. Young: I should come back to our mandate for a moment, if I may, and point out that we do not get too involved with product. We will refer an inquiry for product and product-related inquiries to the trade division to handle. You must come back to the point where our mandate is expertise and the capital goods that flow from that.

To this stage, we have had our hands full, and we will have for quite a while, in delivering the expertise and marshalling the approach to getting these projects rather than getting too involved with the product itself that flows from it. It is all part and parcel of the same export thrust, but we see our role, now and in the foreseeable future, as facilitating the acquisition of more projects and letting the private sector deal with the problems that flow from that. However, we feel there has to be more attention paid by government to the total process of approaching capital projects.

Mr. Breaugh: Okay, let me pursue this a little bit.

It seems to me that one of the intangibles that is kind of at work here is the reputation of Ontario, Canada or whatever. If a private sector company sells something somewhere in the world that turns out to be an unsatisfactory product, it is going to make it much more difficult for you if you are in there the following week selling expertise as opposed to Toyotas. Then you have yourself a problem.

It seems to me there is a need to try to work both ends of the situation, so they buy a product appropriate for their use and it will turn out to be a happy experience, and our producers are putting into that country a good product that is going to work. That is an important thing. That may be a little tough for some of our private sector industrialists to accept, but I think it is important.

Let me move from that a little bit to the idea of consortiums, because this is again a different approach. I would guess that many of our companies, whatever they are doing, are not quite at ease with this. Most of our people in the private sector want to run their businesses the way they see fit, so to speak. They do not want to have to deal with other people in related fields, let alone competitors.

I would like to hear a little bit about your experience as to how we are developing that, because the idea is somewhat foreign to our private sector, which will put together a consortium to consummate this deal, and our project for the next year and a half may be with a totally different group of people in a slightly different field doing a lot of different things. So the old idea that I run my furniture factory in Elmvale and do what my father has done for 50 years is going to have to change a little bit.

How are we making out on that deal?

Mr. Young: The opportunities we find come in a variety of categories. First of all, there is quite a bit of money to be earned doing feasibility studies. There are many companies on our constituent list that can do feasibility studies and do them very well. They can earn quite a bit of money doing them. But that is limited.

However, if you get a feasibility study to do, either through the Canadian International Development Agency or through the World Bank, or whomever, that provides a lead-in to the time when the project decides to go ahead. You can become a bit player; you can become a subcontractor to the contractor that implements the study.

A good example of an enormous project that is pending is the reconstruction in Egypt of the River Nile as a result of the deficiencies that have come from the building of the Aswan Dam. The problems that have developed in the Nile valley are unbelievable.

One of our clients is negotiating with CIDA to get on to the study to determine what should be studied. Just that phase of it is \$1 million. So there is a job that could lead us into quite a bit of work, bits and pieces down the line, subcontractors to other companies, in the total project. There is no way under a turnkey proposal that Canada could marshal the resources to do that job. There are opportunities for studies. There are opportunities in implementing parts of it. There are opportunities as subcontractors.

Then there is the opportunity as a joint venture. This is where we start coming into the new mode that you talk about, where people have to stop forgetting about being their own boss and work with other people. This is something that has to happen if we are going to make our mark.

The next step is the consortium step where there is cross-indemnity. There is a formal consortium with the

joint and several liability. That bothers a lot of people, believe me. I do not know very many consortiums that have been formed in Canada with total joint and several liability. Do you, Ken?

Mr. Littzen: No, not really, but there are some now. Necessity being the mother of invention, to answer your question, is the fact that there is no domestic market. If your furniture manufacturer can sell everything he manufactures to Ontario, that is what he is going to do. Basically, we have an industry that is losing the domestic market, or has lost it, and is trying to build it back up again; but in the interim it cannot let machinery lie idle, so it has to go overseas and it wants to learn how it can deal with the overseas market. So the opportunity is there.

Let us talk about the thermal plant again. There is a project; it is worth \$1.3 billion and reflects 27,000 man-years of work. However, the boiler manufacturer cannot take it on, the turbine manufacturer cannot and the consulting engineering firm cannot go in and sell its services, because the client wants a turnkey project. The consultant, along with people like ourselves, who act as a catalyst, can describe the project to each of the entities, what is required and the pitfalls they have to look for: "Put your priorities in order. You need financing; you need this kind of financing, moreover. You need to know that your product is competitive and that it cannot be a Cadillac when they want a Ford and so on and so forth."

We have that kind of expertise within OIC: that is, to point out the pitfalls and to locate the people who have the kind of expertise to deal with that overseas market in particular. If you do not have it, you might as well stay out of the market; you are just wasting your time and money. If you know the Japanese are in there with concessional financing, why bother? You just stay away from it.

That is the sort of market information we have to have early on: our early alert system, which is referred to in your questions and for which you have a document that generally describes what we intend to do. But it is a part of a total package, and there is an educational portion to that package.

Mr. Breaugh: I am not sure everyone would agree with this, but some of us who are observers of the Japanese picked that out as being something that is unique to them: whatever you need they are going to get to you with technology, financing and integrated industry. Even if they have to steal your technology and create it all by themselves, they will do that.

Our private sector people have a reluctance to move that quickly. There is a way of doing business and almost a mindset; they have made money doing that for years and they do not see why they should change. There is that problem.

You are sitting in the middle watching how these things are done by other nations in other countries. How successful are you at persuading our business people that they have to adapt to these changes? It is really a structural change in the industry.

Mr. Littzen: It is like pushing a rope uphill. Eventually you are going to get there, and you have to bring them along with you. At the outset, if they have a domestic market, they will tell you to go to blazes; but they do not have that market, and I have to keep referring back to that.

Now they are looking for the bottom line, the profit. Where is it going to be? The only way it can be profitable is if you have the right project, the right partners and the right technology and if you can deliver it at the right price. It is a rather simple equation. We think we have the capability to put them together. We are not in the middle; we are taking the lead. At least, that is the way I look at it.

Mr. Breagh: I have just a couple of other things to finish up. Much of what we have done in this country is to take resources or raw materials here, ship them halfway around the world and then buy them back later on. Are we making much headway in reversing that trend, or is that still in the works for the foreseeable future?

11:30 a.m.

Mr. Young: I guess we are going to be doing that for quite some time to come. When you look at Ontario's manufacturing output compared with that of the rest of Canada, we are certainly leading the pack, and I think the manufacturing exports of Ontario should grow very substantially.

The trade division objective for the period from 1982 to 1987 is to assist Ontario exports, which are essentially manufactured goods, to move from \$37 billion in 1982 to \$60 billion in 1987. Built into that, of course, is an inflation factor that might be less now than it was at the time the five-year plan was devised. So there might be some downscaling of that \$60 billion. We are talking about attempting to almost double the exports of Ontario over the five-year period. What OIC is trying to do is make a contribution to that both in dollars for services and dollars for products, the capital goods that flow from that.

I used to be in the manufacturing business and I can only speak from my own personal experience in it. I think there is an enormous opportunity for us to market, export and make manufactured goods of high quality. There is no sense in exporting junk. We have to export the best. It is the only chance we have in the world, to be the best at what we do. To grind out more of the same for something like the price alone is not the way we have to go.

The area of Ontario where I live and where Mr. Epp comes from is renowned for the quality of things we make. I am sure your constituency is too. Those are the things we have to emphasize and, to come back to part of our plan, to build on Ontario's strengths. As Ken points out, if we are not in the game to begin with, we should stay out of it. Why get involved? We have enough to do to see what we do well and what we know we can deliver. That is our theme.

Mr. Epp: What are those five or six areas?

Mr. Young: High tech and communications. That is up front. We believe in urban transportation. We believe in it and we will find out in Vancouver.

Mr. Breaugh: If it goes around corners, we have one step up.

Mr. Young: And hard rock mining and power generation, which is superb. I do not think anybody is better than we are. Some are as good, but many are not.

Mr. Rotenberg: Does that include atomic, Candu--

Mr. Young: Yes. Then we come to health care and health care systems. They are the finest in the world. Then education and educational institutions, to design them and build them and sell the technology of education. Ken, did I miss some?

Mr. Littzen: No. Transmission lines, for example. We are dealing with--power generation and transmission--extra high voltage. We are dealing with direct current transmission. These are things that can be sold all around the world. Because of the length and depth of our country and the fact most of the power is coming a long distance, the transmission lines have become a very important factor. The technology we have is being sold in Brazil, for example, on the Iguacu project, the transmission line from that area, in Kenya, and all over the world.

Mr. Young: The list I gave you is what I think we are best at. There are other things we are good at, but we are talking about the cream of the crop. There are many other isolated areas in which we have substantial expertise.

Mr. Breaugh: I wonder if I could pursue a couple of other areas.

One of the things we have trouble with in this province and in the country is financing projects like this, particularly government involvement in that. I do not know what it is, specifically, but we have a problem of devising a financial assistance program which actually helps people do business. Other nations appear to be more flexible at this. Often, by the time we get a plan worked out to help some sector of the economy and get it on stream and working, it is out of date. It does not work any more.

When you look at what advantages some other nation might have, not that many nations in the world have much of an advantage in labour costs. They may do it in different ways, but in the long run it is about the same. For example, Japanese auto producers do not pay their employees the wages we do, but in terms of wages, benefits, and other things that are assumed, their total labour cost is not much different from ours.

Do you have any comments or recommendations to make to governments in Canada, given that labour costs are roughly the same and technology in some areas is better and in others a little bit worse? The critical difference might be how a government assists in financial terms. Are there any recommendations you have, from observing other nations, that would address itself to that pretty sticky political problem of how one sweetens the pot?

Mr. Young: You have to divide financial assistance into two segments. There is the assistance you give to help get business and then there is assistance you provide to help finance the business or project. In the first category, assistance to get the business, we have come quite a way in the four years we have been here in coming to terms with what help the consulting industry needs. ESF, the export success fund that you no doubt all know about, as it is tailored for Ontario International Corp., is a good program. We are going to find out that it is an even better program when we change it a little based on our experience.

This program provides a loan, not an outright grant, to a consultant who wants to pursue a project. It provides a loan for up to \$50,000 to do one of three things, one of which is a pre-feasibility study. This encouragement is needed because any company that is going to use the pre-feasibility studies as a tool to get business can budget to do only so many. If OIC comes along and phones this fellow some day and says, "There is a project in Egypt and we think you should pursue this feasibility study," and he says, "I am sorry but our budget is all taken up for that this year," we can say, "Come in and talk about it."

If the company can do it and wants to do it, and if it is acceptable at the other end, we will lend up to \$50,000 of matching dollars that he has to put up. He has to pay the dollars out and send us the invoices. If he is successful in getting that study, he pays us back out of the revenue as it comes in.

If at the end of the day he has failed, it is forgiven. That is a good program. So far we have had 27 companies or consortiums take advantage of it. That is one of the better things we have done. The same funds are available for bid proposals. That is where it is probably the most useful. It costs a lot of money to put a bid proposal together. Again, he has to meet certain criteria to get it.

He can also use the money for the cost of performance bonding and bid bonding, but we have not had much demand for that. That is more for when we get contractors interested. We may change that, drop that and not have it in the program. We are feeling our way.

In my opinion--you asked me for a recommendation--these are the kinds of assistance that have to be stepped up. We have about 120 Ontario-based consulting engineering firms--they may not be Ontario-chartered, but they have a substantial presence in Ontario--that are world class in their capability, and not all of them are out there. The more we can encourage them to go out there with this kind of assistance, the better, and we may have to be imaginative.

The other thing is that we have to be prepared to be a little elastic in our criteria as well. Up to this point, we have been pretty rigid. Provincial auditors want you to be rigid, but there are the demands of the marketplace. You have to walk a line between your judgement and the rules. I hope we can build on what we have learned to date. We have been at this fund for about a year and we have learned quite a lot from it. We have had some successes and some failures, but it is a good program.

On the other side of the financial question, the business of financing projects, I think Mr. Littzen would agree that in general the Export Development Corp. has done a pretty good job. It may be that we have to find ways to supplement that with credit mix. I am not sure the Canadian International Development Agency and the EDC are on the same wavelength. Mr. Littzen, this is more in your field. I would like you to take a moment to comment on it.

11:40 a.m.

Mr. Littzen: First, going back to ESF, the export success fund, it should be recognized that it is not meant to compete with the federal programs that are in place, for example, the Canadian project preparation fund, which is for feasibility study, or the program for export market development, which is for assistance in putting together proposals for projects overseas. ESF is a fund that fills the gaps that are left by CPPF and PEMD.

In so far as the total financing is concerned, Canada has an excellent financing arrangement. The Export Development Corp., as Jack has pointed out, has done a good job. The Canadian International Development Agency has done a good job. There are other pots of funding around, but what we have had difficulty with in the past, and I said this in my previous incarnation, is trying to put together those funds to compete with the people from Japan and France who have the credit mix package. There was always a bureaucrat around, if you will forgive me for using that term, to say that the private sector is going to steal from us so let us put in another rule that will prevent us from using this fund.

That, in effect, is what has happened to the credit mix fund that was available at one time through the Export Development Corp. You had to prove that the other fellow was providing credit mix before you were able to access the credit mix out of the Export Development Corp. By the time you were able to prove it, the proposal was in and the other guy had the project, because we are talking about a six- to eight-week period. Of course, that was a difficulty they were trying to overcome.

Section 31 of the Export Development Act has some benefits in that regard, but it does not get CIDA together with EDC. I think we seem to be getting that pushed uphill far enough that CIDA and EDC are starting to talk to each other a little more. We hope in the future we will be able to get all of these pots available so we can compete with the Japanese, the French and so on. What we have been doing to date is competing in spite of not having those pots together.

Mr. Breaugh: Just a quick comment. It is my idea that we need to get more involved at the front end of this system, develop more expertise at that end, be less involved at the rear end of the system, stop helping companies that do not need our help and find new markets. I think your organization is beginning to do that.

Let me just point out finally, and then I will leave you alone for a while, what I consider to be a problem. When one goes through your annual report and attempts to measure what these folks have done, I frankly find it difficult to make that assessment.

I know a lot of people are impressed when you refer to 27,000 person-years of whatever, or some other thing says that they sold \$17-million worth of this, that and the other thing. I am at a bit of a loss to get the yardstick out here and measure whether your organization is doing a whole lot of good.

I am happy that you visited banks and lending institutions and you talked to consultants and everybody else, but that does not tell me whether you are doing any work or not. Even numbers do not really tell me that. As a layperson who is not involved in the field, I do not know whether a \$10-million deal is really good or really bad for us, and I am constantly perplexed at how we can sell reactors and stuff for \$27 million and lose money on it.

I am searching for the yardstick or measuring device which will establish whether we are doing better this year than we did last year and I guess I am admitting that the yardsticks we use fail me somewhat. They do not tell me how many new, in a sense, positions were created, whether we are helping our economy or not.

I am kind of grappling around here, trying to find some method of measuring your activities which would be helpful. In the works, I am kind of rejecting what would be the traditional yardsticks of how many man-hours were created and how many dollars worth of investment were created.

I realize you are pursuing something that is perhaps new ground and may even be called, if you will forgive me, a little airy-fairy from time to time, but I am looking for some measurement device, which I do not see. I wondered if you had considered this to be a problem.

I am thinking of one of the difficulties in this. I noted somewhere that when they leave the country, certain people have to ask the Premier's office or tell the Premier's office that they are going. I am certainly aware that as a political problem agencies like this are tough, because you can be subject to the criticism: "You guys are just jetting around the world. You have big expense accounts and all of that." Then the other side of the coin will be the Premier will announce, "We just sold \$20 billion to somewhere."

I am really admitting that between those two extremes I would like something a little more concrete. The Premier will tell me the wonderful things you have done, and I will say, "Yes, they just jetted around the world and ran up a tab of \$20,000 or something."

I am looking for some device which allows us to find neutral turf that explains your activities and records the growth pattern, success ratio or something.

Mr. Young: Mr. Chairman, I would be very happy to respond to that. I admit I had anticipated such a question, because I would be the first one to ask it if I were sitting on this committee.

I am prepared to account for what the corporation has spent and what results it has got. Results have to be given in a number of ways, but the only kind of results that cut ice with me, because I come from the private sector, are what we actually did accomplish in terms of contracts signed with our assistance. I have some numbers for you on that. I also have some numbers as to the active projects that are being discussed as a result of our activities that have not yet emerged into projects.

We were constituted on July 1, 1980, and one would have to consider the first year as being preparatory. However, during that year we did play a role with a major project in the Middle East. The role we played was that the consortium that was pursuing the project had become extremely discouraged at the way things were going and decided it would not pursue it further unless it received some assistance.

I evaluated the project and agreed to pay the cost of their team, and I think there were eight or nine members of the team, to go to the Middle East and have one final session of negotiation of a week. That resulted in a contract being signed for fees in the neighbourhood of US\$80 million.

Checking on this project a couple of weeks ago, I learned that about \$35 million in fees had been accomplished. Adding that into the years we have figures for, 1981-82, 1982-83, 1983-84 and 1984-85 to date, OIC has spent in a global budget way, outside of the export success fund--I will give you those numbers separately--less than \$3 million in budgets for the four years.

We have participated in actual contracts to the tune of \$106 million. We have played some role in acquiring those contracts. I gave you \$35 million for the first year; 1981-82 was \$6.6 million; 1983-84 was \$27.5 million; 1984-85 was \$20.5 million. Our target for this year is \$22 million. We are at \$16.4 million so far this year. We have some very good successes just about ready to come in.

In hard numbers, I can tell you our success ratio. We are spending about three per cent of the value of the contracts that are getting acquired. I think most companies would consider up to 10 per cent for product market development as being a reasonable amount.

11:50 a.m.

In addition to that, I can tell you the position at March 31, 1984, around the world. I should define the project for this purpose. The project is not when we have heard of something. A project is when we have a company here or a consortium here negotiating with a party over there.

Remember what I said about the world market being something in the area of \$100 billion. I am looking here at a total value of projects of about \$9 billion that are being talked about or negotiated, and we hope to mature five per cent of these.

There are 153 projects. To give you an idea how they break out, in the Middle East there are 32; southeast Asia, 36; the Far East, 16; south Asia, 10; the Caribbean, 22; South America, 11; Africa, 10; the United States, four; and Europe, 12, for a total of 153 and a gross value of \$9 billion.

Those figures are easy to throw around. I give them to you only to give you an idea of the scope from which we hope to draw another \$100 million worth of projects.

We have no way of knowing what we might have influenced on the way through; I am giving you only what I know has matured. It may be a phone call, it may be one visit, it may be our literature lying on somebody's desk--we have no way of knowing what that (inaudible). But I am able to tell you that--

Mr. Breaugh: The reason I raised this is that having worked in municipal politics with economic development officers and stuff like that, I know this used to be the bane of everybody's budget, because the guys would come in and tell you, "We visited France, we did this kind of mailing and we had this business meeting." People would stand around and say, "Yes, but what did you do?"

For example, when I looked over your budget at administrative expenses and at all the traditional things an auditor wants to see, it does not look like a whole lot of money, quite frankly; I am sure Ontario Hydro blows that out the window every morning. That is a bit of a problem, and then to try to get your yardsticks in place of what a project is and what you actually did do.

In my opinion, the one thing that really counts is if somebody can show me direct-line relationships: "This is a company with which we had a contact, this is what the company did and this is the fruition of that project." After a number of years you begin to get almost a straight-line, direct track record and you have some indication there of the hard-core work that was actually done.

However, I also have to admit that a lot of this is pretty airy-fairy. You do not know whether your mailing hit the right desk at the right moment. If you had gone out the door half an hour earlier, would you have received that phone call? Would you have spent the evening with that company? It is a very intangible thing that you pursue.

Mr. Young: It certainly is, but I want to assure this committee that we do not want to be perceived as a smoke-and-mirrors organization. That is why I am prepared to tell you that we have a direct, identifiable and documented connection to \$106 million worth of contracts.

Mr. Rotenberg: On that \$106 million, how many man-years of employment is that in Ontario? Do you have a figure on that?

Mr. Young: Yes, I think we do. On a professional job, the fees are probably the largest part. Let us say it is two thirds fees; so we are talking about \$60 million in fees. A professional job is produced by about \$75,000 in fees; so we could be talking about what? About 100, 1000?

Mr. Littzen: In that order, 1,000.

Mr. Young: Yes, 1,000, because you have to--

Mr. Rotenberg: That is because you have to include a secretary and the backup people as well.

Mr. Young: No, those are the professional jobs.

Mr. Rotenberg: When the professional gets his job, a secretary is going to be working for him--

Mr. Young: That is right.

Mr. Rotenberg: --and somebody else in the office is going to be working as well, because there are more jobs than just the professional, talking in general.

Mr. Young: Yes. With respect to the product that flows out, about \$40,000 of product produces a job, and on that basis there would probably be 1,000 or 2,000.

But we have done our best to document in a businesslike way the results we have obtained. We can spend only so much time tracking our efforts too, the demands of people who want help. We can only say that over the years it will accrue.

I have a very comfortable feeling about what has been done, not simply because I want to accept some of the credit perhaps; we are also going to accept the blame for what we have not done well. But I am committed to the notion that what we are doing has got enormous benefit to come to Ontario if we pursue it and develop our mandate as we go rather than predetermine what it should be.

We have circulated to you a strategic plan that I am going to ask Ken to deal with a little later. Perhaps you will want to do this later this afternoon. We want to show you that we know what we think should be done and that we have a plan for doing it.

Mr. Chairman: Thank you. It is almost 12 o'clock. Is it the wish of the committee that we break off now until two o'clock? Should we do that, and would you have that 20-minute film so we could take it right at two o'clock?

Mr. Young: It is a slide presentation.

Mr. Chairman: We will carry on with questioning after that.

The committee recessed at 11:56 a.m.

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
ONTARIO INTERNATIONAL CORP.

THURSDAY, SEPTEMBER 6, 1984

Afternoon sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
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Breagh, M. J. (Oshawa NDP)
Charlton, B. A. (Hamilton Mountain NDP)
Cureatz, S. L., (Durham East PC)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Mancini, R. (Essex South L)
McLean, A. K. (Simcoe East PC)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Witnesses:

From Ontario International Corp.:
Bros, M., Legal Counsel
Littzen, K. A., President
Young, J., Chairman

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, September 6, 1984

The committee resumed at 2:09 p.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
ONTARIO INTERNATIONAL CORPORATION
(continued)

Mr. Chairman: Gentlemen, I will call the committee to order.

Gentlemen, you have a problem with your slide show.

Mr. Young: I am glad you brought that up.

I will ask my colleague to explain about the slide show.

Interjections.

Mr. Epp: The chairman will speak only about the successes, and the president will speak about the failures.

Mr. Littzen: It was the president and chief executive officer who spoke about the failures. That is me.

Unfortunately, our slide presentation was taken away by the advertising agency that is helping us to upgrade it and put it into cassette form so that it can be sent around to act as publicity for Ontario. I have here the wording that goes with the slide presentation, which I would be delighted to repeat.

Mr. Chairman: While you read, will the chairman go through the actions?

Mr. Epp: Which advertising firm is that?

Mr. Littzen: Hornell.

Mr. Epp: Is that as in Ward Cornell?

Mr. Littzen: No, Hornell Marketing Services Ltd., not as in Cornell. I do not know what his political affiliations are, as a matter of fact.

Mr. Breaugh: Has he a contract with the Ontario government?

Mr. Littzen: He had.

Mr. Breaugh: Then I know what his political affiliations are.

Mr. Littzen: He used to have. We would be delighted to put it on for you when we get it back. If you are still interested, just let us know.

Mr. Young: We could come on short notice some day when you have a little spare time on your agenda. We would really like you to see it.

Mr. Littzen: We believe it is well worth while seeing it because it gives an overall picture. There is a little smoke and mirrors in it. We had to put it on for the cabinet committee on resources development; so we thought we should have some jazz, and that comes at the beginning. However, there are hard parts in it, and we believe you would be interested in seeing it.

Mr. Chairman: Before Mr. Epp, who was next on the list, may I ask a question? You have a relatively small budget. As I see it, you are the eyes and ears out there in the Third World countries and so on. With your budget, you can only have a limited number of people out there being eyes and ears. Is it your opinion that you would be more successful if you had 10 times as many eyes and ears? Would you be 10 times as successful?

Mr. Young: Not necessarily. I think one has to look at the priority markets, which are essentially southeast Asia and the Middle East; those are the two major markets, followed by the Caribbean, South America, parts of Africa and so on.

If we had more budget, we could make better inroads in the priority areas, but our trips out there are only part of the method we use. The complementary method is to give some funds to other people, to our clients, to go. At this time we are carefully assessing how that money is being used, because the federal government's program for export market development does a pretty good job for most of the consultants and people who want to go.

We come into the program when they are not eligible for PEMDs or when they have used them up or when they want to do something over and above that.

We can always use more money, but it is not our strategy to say that money is the answer to these problems and to our assistance. What is of help to us is a better understanding of the marketplace, the better to be able to impart to our clients the problems in dealing with it.

This gives me an opportunity to tell you about a project, if I may. Instead of our slide show, I think it is very important for you to know about this.

Before we broke for lunch, we were talking about the financing of projects. That is a real world of mystery to the average person who goes out into the capital projects world. How do you get financing for a project? We have just completed a draft that is going to the printers. We are calling it A Primer on Capital Project Financing. It is amazing how much we have been able to do. What did that cost us?

Mr. Littzen: It cost \$8,000.

Mr. Young: I would like Mr. Littzen to explain what is in it, because that document is going to be very well received by the industry as a whole, by the export associations and so on.

Mr. Littzen: Having been in private business for 29 years and trying to deal with the world market during that period of time, my background is that we originally had 135 people in our organization and when I left we had 6,000. We were doing something in the order of \$175 million in fees alone; so we must have been doing something right.

One of the things that always bugged me was the fact that I would never really understand where the financing was coming from. If I had a problem in southeast Asia, where would I go to get financing? The easy answer is that I would go to the Export Development Corp., but that is not always the answer. There are certain portfolio-type requirements by EDC; for instance, it will not finance for Kenya because that portfolio is full. You never really know at any given time what that is and you cannot take it out with you.

When I came to OIC, I felt we should try to put together a document--it may not even have been possible--that would include all the financing capabilities in the world. How do you do it as a new exporter? How do I get paid? This is how you get paid. How do I go out and get this financing? Whom do I go and see? Names of agencies, hard facts rather than generic understandings.

We hired a consulting firm. We started out with a larger amount of money and gradually cut it down until we got it to about \$8,000. We have a 57-page document as opposed to a 570-page document, but it has all the facts. You do not have to be an engineer and you do not have to be a financial genius to know how to deal with it.

We had it approved by the Export Development Corp., the Canadian International Development Agency and the Canadian Export Association. The president of that association, Frank R. Petrie, has asked us to give him copies for all his members. We think we ought to get something out of this; we may even have a money-making proposition here. We do not quite know how we are going to do it, but we will certainly find some way to be repaid for the \$8,000. We may sell it through the bookstore, for example, or something along those lines.

By and large, the consulting community, the architectural people and the manufacturers who want to deal in this export market should no longer have to concern themselves with where they go for financing. This answers, let us say, 90 per cent of the questions.

You may be interested to know that there are in the order of 141 financial agencies in the world that provide this kind of financing, not including chartered banks and not including the equivalent in the United Kingdom and in Europe. These are agencies such as the Islamic Bank, the African Development Bank, the Asian Development Bank, etc. These are all enumerated. We even give the names of people in some instances where it is appropriate to do so.

That document is now being printed, and we hope to have it available for a seminar we intend to have on providing government technical assistance some time in the near future.

Mr. Young: We would be happy to make copies available for the committee.

Mr. Epp: Maybe you can bring us up to date on the merger of the Ontario International Corp. and the Ontario Educational Services Corp. How is that merger coming about, and what about the personnel, the physical facilities, etc.?

Mr. Young: You are probably aware that the Ontario Educational Services Corp. was put in place about six months after OIC was. I was appointed to its board to provide some liaison, as I did. We were both up for sunset review at about the same time with about six months' lag. When OIC came up for sunset review, we were postponed to consider the OESC sunset review and then to decide whether there was some reason for merging us.

The Management Board, in its wisdom, made the decision to sunset the corporation but requested that it be folded into OIC, and on March 1 we assumed lock, stock and barrel and all its personnel. We have yet to assume its assets and liabilities officially, because the routine of auditing has not been completed. Our legal counsel will not let us assume anything until we know what we are assuming, and there is perhaps some wisdom to that.

2:20 p.m.

Physically, they are now part of the Ontario International Corp. They are under the day-to-day management of our president. We have been operating as two divisions since March 1. These are the capital projects division, which has been under Mr. Littzen, and the educational services division--the word "Ontario" has been dropped--headed by Ian McHaffie, who was formerly the president of the Ontario Educational Services Corp.. He is now the vice-president of the educational services division.

The process we are going through at present is weaning them away from the policies and procedures under which they operated previously and bringing them more into line with the policies and procedures of the Ontario International Corp. One has to recognize that there is some difficulty in doing this because the one organization, ourselves, has been dealing in more or less very tangible services and products whereas the Ontario Educational Services Corp. has been dealing in intangibles. Their sights are set on a longer horizon than ours. One has to understand that it takes a good deal of work in giving educational assistance to other countries before there is a payback. That causes some difficulty in assessing how valuable the role is.

Essentially, the difference is this. The Ontario Educational Services Corp. was in the business of signing contracts itself and then fulfilling those contracts either from its own resources or from contacts with community colleges and other institutions. They were acting as the official and contractual broker in the process. This was not a role we were fulfilling and it was not a role we sought to fulfil. We have had to assume those obligations and carry them out, which we will.

The question is, do we continue to do that? An argument can be made that, having started down that road, we ought to continue to do that and that other countries will buy these services from Ontario only if the Ontario government is involved. They want to buy them from the government. There is a case to be made for that.

On the other hand, there are private sector consultants in many cases who can deliver those services. When you contract to do something, you have to manage that contract. You have to pay bills and you have to administer it. Is that the business we should be in?

We are in the process of sorting this out, and it will take a little time. Our recommendations and our new mode of operating, a change of style, are being accepted. They are not being resisted. We have to accommodate, too, to the fact that there is a longer payback time in that field of endeavour. While it has not been easy for anyone, we are dealing with it. Within a couple of years we should know how successfully we have done it.

Mr. Epp: With respect to the Ontario Educational Services Corp., what kind of contracts did they have there, and we assume they did have them? Was there any substantial return on what they were doing?

Mr. Young: They were constituted to be a cost recovery organization. In other words, they intended to recover their costs, the cost of their operating budget, which is something less than ours. They did not do quite as much travelling. They did do quite a bit of hosting. Let us say their budget was approximately 75 per cent of ours. Most of the contracts they got involved with were quite small. I would say they were less than \$50,000. Their target was to earn about 10 per cent of the contract in fees. They did not earn a profit on all contracts. Some cost more than others.

If you evaluate their performance on the basis of what they recovered, you could hardly claim it to be a roaring success. If you evaluate it on the basis of the number of contracts, the value of those contracts, which is what we do, it would look better. Unfortunately, they did not have the marketing skills we think we have. They were using professional educators, which they are, and they had to learn to work in a marketing mode rather than in an academic mode.

I would not want to give up on it at this stage. It needs some time, careful development and some refocusing of their efforts. About half the organization has been devoted to the management of contracts, which we want to get away from. Our regulations have had to be amended to give us the authority to do this contracting role. That has been done.

In the memorandum of understanding which we are drawing up with the minister, we are asking for authority to get into contracts, and then to manage them by giving them to private sector people to manage. That role will be limited to those cases where the foreign client says, "I want the presence of the Ontario government in this project." We have two or three such projects

where probably if the government role was not up front, the project could not have been realized. They would not have become involved.

The British Council, which I referred to this morning, the instrument of the British Foreign Office, signs contracts every day as a matter of its policy. Somehow or other it is felt that we have to do it. If we are going to compete for education-oriented contracts, we have to be willing and have the capacity to do that.

Mr. Epp: I get the impression that the Ontario Educational Services Corp. is much of a failure and that this is going to be phased out over the next few years. If I start to read between the lines, that is the impression I am getting. You are talking about it not being very much of a roaring success; it was obviously something short of that. Is it your intention to phase out that aspect?

Mr. Young: I certainly would not want to make that judgement yet. I want to talk about the time horizon. In our project activity we have about a two-year time horizon on the average. Let us say we hear about a project. We are going to know within a year or two if something will develop out of it.

Mr. Epp: The reason I am saying that is when you are talking about contracts of \$50,000, that is okay when you are trying to do a contract in Waterloo and you get one for \$50,000, but when you are talking on the international scale, you can easily spend \$5,000 or \$10,000 on transportation going back and forth. If you do something for \$50,000, there is your profit. There is nothing left and you are wasting your time. If it is one \$50,000 contract and there are ten \$10 million contracts, that is one thing, but if--

Mr. Young: One thing that needs to be kept in mind is that developing countries have enormous needs for access to educational facilities. Our universities are heavily sought after. You have only to walk through the campus to see the multiculturalism at work. This is a very important assist to the export activities of any country. If we do not make our educational institutions available, others will. The British and the US will, and they do.

Bridges are built through this, but the time horizon you have to live with to get a payback from that is much longer than most of us are prepared to wait. It is something I think is important for the future. That is why we should not be in too big a hurry to say the Ontario Educational Services Corp. failed or that it cannot succeed. We need a little longer. We need a change in strategy and focus. If within a reasonable time, results are not forthcoming, we would be the first to say we have to change something, but I do not think that should be done yet.

Mr. Littzen: In the contracting business we are talking about, the caveat is that you do not put the central revenue fund at risk in any way. What you do is back to back with the private sector. In other words, you act in the same manner as the Canadian Commercial Corp. acts as a contractor. They get back-to-back

guarantees from the private sector. They act on a government-to-government basis because that is the reason for being there in the first place. The government of the foreign country wants the comfort of dealing with the government because it has been burned by the private sector so often in the past. We act as that comfort, but we do not take any risk.

2:30 p.m.

Mr. Young: Wherever there is risk, we are writing into the memorandum of understanding that we would have the prior agreement of the Treasurer, through the minister, in order to do it. We are protecting ourselves and the government in this process.

Getting back to what I think is the central issue you are addressing, Mr. Epp--whether or not the educational services division ought to exist or whether it should be sunsetted--I do not think it has had its best opportunity. I think it needs leadership in the marketing field to come into play for a while, which is what I think we can give it. I also think it needs a new focus on the way it does it. I am satisfied, and I have been involved in enough projects that have an education component in them to know.

I can give you a very exciting story about Malaysia. They are out to train 9,000 young entrepreneurs, to send them abroad for three-month fellowships in entrepreneurial skills. Last summer one of our private consultants, who did not want to deal with the Ontario Educational Services Corp., came to the Ontario International Corp. and said, "Can you help us to bring in a trial group of these?" We did. We brought in, I think it was 25 of them, and it turned out to be very successful.

They are the pathfinders for a group of some 9,000, and the revenue from these is going to be about \$10,000 per student. That is \$90 million worth of business which is going to be spread around the world. Canada has an opportunity to get a very good piece of this. Not only is that earning money in part-time jobs for the three months they are here, but it is building that bridge for the future.

These are the things that are very difficult to quantify when you are talking about results, but they are nevertheless important in the overall export life and activities of the country.

Mr. Littzen: You might also want to know about the marketplace. If you allow your imagination to run completely wild, I understand the Chinese are talking right now about having their students taught English. They are looking at a million students at the outset.

Mr. Rotenberg: A million or a billion?

Mr. Littzen: A million.

Mr. Young: That is for starters.

Mr. Littzen: Naturally, it is a billion, and they are looking everywhere, including Canada, for that possibility. That includes both equipment, which would be visual aids, computers, and whatever over in China which we can produce, as well as educational aids right here--and bringing in students.

Mr. Epp: In merging those corporations--it is more of a takeover than a merger, but irrespective of that--what about the personnel? You indicated earlier, Mr. Young, that you had absorbed all of those.

Before, the Ontario Educational Services Corp. sent out people and you sent out people, to the Middle East and wherever, to evaluate contracts and this and that. Are you integrating them all now? You are not going to send one person over for one thing, have him come back and send somebody else over the next day to do something else, wasting a lot of travel.

Mr. Young: I will let the president answer that.

Mr. Littzen: If you refer to this document, you will notice that it is the system for early project identification, and it is a system that we intend to implement as part of a five-year plan. That goes for both the educational services division and the capital projects division.

Mr. Epp: Do you want to take us through that?

Mr. Littzen: Okay. The documents we refer to are the development form, which is a type of Canadian International Development Agency document that comes to us and describes each of the projects in the pipeline; a monthly operational summary; a Royal Bank summary; and technical data sheets we get from the Royal Bank, the Asian Development Bank and all over the world. We are now registered with all those agencies.

CIDA and the Canadian embassies provide us with leads, as well as Ministry of Industry and Trade offices and the client countries, those of the Third World as well as the developed countries. We get day-to-day information that refers to projects.

Now we come to what we are talking about as OIC consultants. We go out on what are called probes. Part of our yearly plan is to develop the probes that go into the various areas. We are set up geographically in the capital projects division. We have someone taking care of southeast Asia, someone on the Pacific Rim, someone for South America and the Caribbean and so on.

We plan these probes well in advance. We advise the Consulting Engineers of Ontario, the architects and all of our clientele that we are going on the probe, we are going to be in this country on this date, we are going to be seeing such and such ministers, heads of government or whoever we are going to visit, the reason we are there and how we can help them. We ask if there is anything we can do for them, if they want to be there at the same time and get the comfort of having a government official along when they do that.

I spent two weeks in Latin America where I had somebody from the private sector in every country with me and we were able to complete two contracts for the private sector, one in Venezuela and one in Columbia. That can happen. That was a fluke, I will tell you right now. You would not expect that to happen.

As far as the educational services division goes, it would fall into the same category. They are being integrated into this system. We will plan at the beginning of the year where they are going, whom they are going to see, what specific projects or approach they are going go after and then we will have a method of evaluating as the year goes along how successful that is. To all intents and purposes, we are in the process of integrating the two groups right now.

Please do not misunderstand. We are not going to the lowest common denominator. I think there is an excellent market for these people and I think they are pretty good people to deal with, from my point of view. I see no reason to feel they should be dealt with in any other way.

Mr. Epp: Let me get to something else. In dealing with your clients, clients of the OIC and so forth, how do you directly get involved with them? We were speaking in generalities earlier, but as to giving direct assistance to some of those clients, can you be more specific, example A or B or something of that nature? To what extent have you given them assistance? What portion? How do you evaluate your success later?

Mr. Young: First of all, we started to interface with them through their professional organizations. Our story was written up in their journals, through the media, through the information we pass out. Probably as many of them came to us and rang our doorbell as we went out and rang their doorbell in trying to locate them in the first place. It is not uncommon now for any one of us to get a phone call from a consulting engineer who is intending to pursue a project in southeast Asia and who would like to come in and talk to us about it.

It starts with a conversation. What he is looking for is: "What help can you be to me? Is there some way you can help me?" First of all, we can help him by finding out if the project is real. That is where you start.

Mr. Epp: What do you do? Do you ask for a consultant's study?

Mr. Young: No. What we do there is we usually contact the federal post, the trade commissioner out there or someone we know in the territory with credibility, and we check the bona fides of the situation.

Mr. Epp: The trade commissioner for Canada?

Mr. Young: That is right, the trade commissioner for Canada. In many cases, he will not know about the project. He does not have the vast knowledge simply because he is there, but he can check it out very quickly when given something to go on.

2:40 p.m.

The first thing we do is check out the bona fides. Sometimes, if the Canadian International Development Agency has brought the thing to us or if CIDA has called them--quite often CIDA will be the instigator of something--there is no need to question it. We know it is for real. It is just a question of whether these people can be selected for CIDA.

It is not unusual for us to accompany them on a trip to CIDA in Ottawa. I have done that and so has Ken. This evidences two things to CIDA: that they are credible candidates for the project, to do the study or whatever, and that the Ontario government is keenly interested in having them do it. They see that as a very important step in putting them on the short list.

Having done that, the next assistance we might offer might be the air fare to go out and have a preliminary look at the project. We consider this to be a client probe. We would not make a trip to examine one project; if we make a trip, we would be looking at 15 or 20. We do not even consider it productive to go and look at one possible project.

For the client who is going to invest his money we might pay the air fare, but it is going to cost him just as much for hotel, internal travel and so on. It is a lot of assistance to him to have us share the cost of making that initial market investigation.

Furthermore, there is the help we just talked about with the financing of the project. We can interface with the Export Development Corp. for him. We can interface with CIDA and with the chartered banks that have to finance what the EDC does not provide.

We can make the export success fund available to him if he qualifies. Many of these people who come to us do not understand the federal programs; they do not know what they are so we market those for the federal government. After all, Ontario is paying its share of that.

Quite often people have left our office saying, "Gee, we had no idea all these things were available." It is a case of going through the list and seeing this is available from the feds and this is what we can do, whether supplementary to or instead of the federal program. Sometimes the answer comes back that it is really not worth following up and nobody has spent any money, so we have performed a useful purpose there.

In the Middle East and in particularly unusual markets where we have some personal knowledge of the customs and habits, we can tip people off to a lot of things. We can put them in touch with good agents where we know there are good agents. The agency thing in Middle Eastern countries is pretty tricky. You can encounter all kinds of pitfalls in appointing an agent who does not know the people he says he knows or who claims to have access right across the scope of government, and no one has that.

There are princes galore, princes by the hundreds out there who purportedly can do all kinds of things for you but who, when

it comes right down to it, have a very limited window to access.

It is the same thing with Ken having more experience in South America than I would. Each of our consultants develops his own skills relative to his territory. We think it is a good strategy to stay with a geographical territory for as long as we can, because the depth of knowledge we can impart to our client becomes greater and more and more useful.

Mr. Epp: When these people come in to see you and you give them some assistance, what do you do? Do you give them direct grants? What kind of handouts? Do you give them loans or low-interest loans? What latitude do you have?

Mr. Young: The programs we administer ourselves are like the client probe, which is an airline fare. That is administered as if the Ministry of Industry and Trade were doing it. After the president approves it, it goes to the deputy minister or minister. Anyone who travels outside Canada has to have the minister's signature. We follow the process of the ministry, but it comes out of our budget.

If we are helping a company publish some brochures, which we sometimes do, we might offer up to 50 per cent of the cost of those brochures for a consortium, for instance. We can authorize that on the authority of the president. We do that ourselves.

Concerning incoming buyers, a very interesting project we have going on right now is a very large polyethylene plant in an Asian country, and the president and the vice-president--the father and son--have never seen a state of the art plant. I have extended an invitation to them, which will be paid for between ourselves and our consulting client, to come to Canada to see a state of the art polyethylene plant. That we can do on our own signature, after satisfying ourselves that it is, in fact, a bona fide project and good.

The export success fund, which I alluded to earlier this morning, is up to \$50,000 on a loan. That is administered in the Ministry of Industry and Trade, but there are funds set aside for the Ontario International Corp. only. The rest of the ministry has a grant program. Ours is a loan program. Of \$1.3 million that so far has been allocated to us, we have committed about \$800,000 to \$900,000 to date.

Mr. Rotenberg: If I can follow that up, if you find a potential exporter who fits into a program that you can see can fit in with somebody over there, and he has not got the capital either to fund it or the expertise to get himself going, through you or through the Export Development Corp. or someone else, is there some way for these people to get loans or grants in order to fund them to get into the business?

Mr. Young: One of the criteria they have to have to access the program is, first of all, they must satisfy us they have the expertise to do it and, secondly, that they have the financial capability to do it.

Mr. Rotenberg: What about those who have the expertise, but do not have the total financial capability to take on something which maybe is bigger than they have ever had before? Where do they go in order to get some assistance to get going?

Mr. Young: They come to us and we tell them exactly what to do, step by step. When it comes to financing, we can now hand them a document that tells them exactly where to go, whom to see, and how to do the--

Mr. Rotenberg: That may be some federal program--

Mr. Young: There is a combination of programs, as I described this morning.

Mr. Rotenberg: I do not want to get the details at this point. You are available there as the catalyst to advise them where to go and what to do?

Mr. Young: Exactly. Not only that, as was pointed out, we will pick up the phone and make arrangements for them to go and visit. We will describe for the people how well along in the export field these people are, so we do not start them off at the lowest common denominator, unless that is where they want to go.

Mr. Rotenberg: Basically, you are more facilitators than--

Mr. Young: Expeditors and facilitators.

Mr. Rotenberg: Expeditors and consultants. Good. Sorry, Herb.

Mr. Epp: No, that is fine. Thanks very much. I know other members want to ask questions, so I will pass.

Mr. Watson: Mr. Young, I would like to explore the involvement you have in areas of agriculture with regard to markets for products, if you are involved in that, or perhaps pertaining to assistance. You mentioned architects, engineers and people like that this morning, but you have not mentioned, for instance, agrologists. I guess we go back to the old adage: "If you give a man a fish, you feed him for a day. If you teach him how to fish, you feed him for a lifetime." There are a lot of people out there in this world to be fed.

What is your involvement in agriculture in Third World countries, either in selling our products or teaching them how to grow their own products?

Mr. Young: It has been considerable. If I had thought about it a little earlier, I might well have included agriculture in one of the things Ontario does well in specialized fields. We have been involved in a number of agricultural projects. Ken recently has been involved with a couple that are very interesting. Maybe you would like to speak to this, Ken.

Mr. Littzen: There is a company with the unlikely name of York Construction. Earlier this morning I referred to one of the contracts that was signed, which was in Venezuela. Up until recently Venezuela imported up to 90 per cent of its food products--fruit, cattle, meat, whatever. Now it has had to pull in the belt and has decided it had better start growing its own.

2:50 p.m.

We were able to put together a project with York Construction, which is entrepreneurial as well as being in the construction business, to sell all the necessary equipment--cattle, embryos and semen--to start a cattle-breeding farm in Venezuela. The value of this particular project is in the order of \$5 million, and almost all of it is coming directly from around the Toronto area--the cattle, the embryos and so on. The equipment for export to that country is being manufactured at the moment.

Ongoing from there is that this particular agricultural cattle project is a priority in Venezuela. They feel they will be budgeting something in the order of \$200 million a year for the next five years in order to reduce their imports by maybe even 10 per cent. That is all they can do. That is all they can swallow at this time.

Now that they have the experience, we have put this firm in touch with other similar projects I ran across in Colombia and Chile. We think there is room for this all over the world, to be quite honest with you.

Mr. Watson: Is this a dairy project?

Mr. Littzen: It is a dairy project, yes.

Mr. Watson: In that connection, do you have any contact with the technology centres? I guess I am looking at the farm equipment and food processing technology centre, which is really to develop equipment that will fit primarily the small food processors here.

I know they have the possibility of movable--not portable--plants that would process oil seeds. I am told there is a tremendous market, for instance, in China. There may be a stage there where if you have a movable plant--I am thinking in terms of movable; it will need three, four or five trailers to move it--it is probably better in that economy to move the plant to the product than what we would do here, which is to move our product to a central plant. Do you have any involvement in those kinds of operations?

Mr. Littzen: We have been assisting a group that has a new method of harvesting rapeseed. What is another product? Forgive me for not knowing agriculture all that well.

They put on a presentation for the minister and were looking for assistance from the Board of Industrial Leadership and Development program. We have also put them in touch with likely

clients, such as the Seventh-Day Adventists, who have these projects all over the world and are in effect vegetarians. These products, such as soybeans, for example, in this case, would be very useful to them. These are units that can be moved around.

Mr. Young: One of our other successes is with that same group. It is very interesting to note that the Seventh-Day Adventist Church has a cash flow of approximately \$600 million a year for global outreach. They are using that to seed projects.

One of the projects one of our client architects got involved in was an agricultural school in Brazil; it was a transmigration project where they are moving population into an area of the Amazon. They want to establish their food-growing capability before they get there and they have to train their people, so this is a project we have been associated with.

Another project that comes quickly to mind is a tobacco-growing project in France. I am not sure why they are going out of production but they--

Mr. Littzen: We do know why they are going out of production now. We had lunch with them just the other day.

Basically, the Gaulois-type cigarette is less interesting to the French people now than it used to be. They want to grow Virginia-type tobacco and they have come here. We have assisted this group to go to France and we have assisted the group to come here to see the harvesting and the equipment for harvesting.

The outfall of all this that was never expected is that there is a good opportunity to sell tobacco directly to France from the Leamington area, from that part of the country. I understand they are as close as dammit to signing a contract right now.

Mr. Young: When you ask, "Are you involved in agriculture?" yes, we are. We have to stop and think which are agricultural projects, but projects are projects to us. We deal with all of them pretty much in the same manner, with the same formula. Depending on what kind of focus we want to use we could crank up agriculture, for instance.

Mr. Cureatz: With regard to the Seventh-Day Adventist Church in Canada, I think my colleague Mike Breaugh might confirm that its headquarters are in Oshawa. I have the opportunity of meeting with the board of directors from time to time so I am somewhat aware of it, but I did not realize you people were involved that extensively. I guess I did not ask and they did not explain it. To what degree? Would you have a specific person who is spearheading it?

Mr. Young: The treasurer of the international organization is based in Washington, DC.

Mr. Littzen: Dr. Dracenberg.

Mr. Young: Yes, Dr. Dracenberg. We have continual

communication with him. The Ontario International Corp. is on his list of contacts. Principally he is involved with a planning and architectural development firm that is one of our clients. I think they are working on their fifth project now with the Seventh-Day Adventist Church.

Mr. Cureatz: You are not involved directly.

Mr. Young: No.

Mr. Cureatz: It is through the contact?

Mr. Young: That is right. Nevertheless, if we found a project that we thought could be developed with their financial assistance, we would not hesitate to contact them. They are available. They are the kind of people who can not only generate financing from their own sources, which I believe is essentially the tithing of their members, but they also have worldwide communication with other churches.

Mr. Cureatz: I am familiar with some of their programs in India. Have you had some indirect dealings there?

Mr. Young: Not with India, but we have with Kenya, Jamaica, Brazil, the Philippines, Singapore and other places.

Mr. Littzen: With reference to our getting directly involved, I was once president of the Brazil-Canada Chamber of Commerce. Dr. Dracenberg asked me whether when I went to Brazil I would try through my connections to get the project off the back burner, because it had been put there by the government on the basis of other priorities.

While there we were able to see some fairly high officials of the Brazilian government and we got it on to the front burner. We have letters to say that the project is likely to go ahead, with the Seventh-Day Adventist Church providing certain funding and Brazil providing other funding.

Mr. Watson: Are they not doing that project through their co-ops in Brazil, taking people from southern Brazil and moving them into the Amazon region?

Mr. Littzen: That is only partially true.

Mr. Watson: I was in southern Brazil six years ago and that was one of the projects they were discussing at that time, trying to take people who had two- or three-acre plots on the side of a hill and move them to the Amazon area. Sentiment aside, I was interested that there were strict regulations as to how much of the jungle they could cut, because they were not going to make the land barren. You had to leave at least half the land.

Mr. Littzen: The concern is erosion in that area. The pulp and paper mill that was put there has now closed down for that very reason.

As to moving people in, a certain number of people are going to be moved in, but there is also a program to integrate the people who are already in the area. It is one that sounded good on paper, but I was not sure that when it came to family ties and things it was going to work. When you mentioned it, I perked up to ask, "Is it working?"

Mr. Young: The same kind of project is taking place in Indonesia where they intend to move millions of people from one island to another. As you point out, it is not easy, but over a period of time it will be better for them. They will have more opportunities.

These projects have to be followed because they open up all kinds of possibilities for infrastructure development, which is what we think we are pretty good at.

Mr. Watson: What organizations do you work with on the professional side of agriculture? Do you have any liaison with the Agricultural Institute of Canada?

3 p.m.

Mr. Young: We have not formally established it. We are meeting with Dr. Switzer, the Deputy Minister of Agriculture and Food, next week to generate more activity on the project side of agriculture.

The Ministry of Agriculture and Food has its own marketing division for agricultural products, and since we are not involved in products ourselves, we have not tended to want to meddle in that. But where the project activity is concerned we feel there is a lot more that can be done, so we are going to start with Dr. Switzer shortly to develop more activity.

Mr. Watson: As you say, there are all kinds of groups; there are social agencies, religious agencies and government agencies. You spoke earlier about bringing people here. In agriculture that has been going on for many years: bringing people to the University of Guelph, lecturers from here going there on a one-year or two-year term and that kind of thing.

Mr. Young: We have been in steady touch with the University of Guelph. Where we have noted the need for a consultant, we get in touch with it. But, quite frankly, we have not gone as far in agriculture as we have in some of the other areas, and I think your point is well taken that there are a lot of opportunities to interface with people who have skill and expertise.

Mr. Watson: In areas of the world where populations are not being controlled, food has to be number one, and it is agriculture that has to produce it.

Mr. McLean: Land drainage; is there any involvement there?

Mr. Young: Yes, not only land drainage but irrigation as

well. Saudi Arabia is an ideal example of the need for irrigation. Land drainage is big in southeast Asia, where they have to drain water out of the land to make it arable.

Mr. McLean: Have any companies from Ontario located in those other countries?

Mr. Young: Yes, Ontario consultants are working there.

Mr. McLean: I mean manufacturers.

Mr. Young: I cannot answer that.

Mr. Littzen: No, I do not think so. The competition for the type of equipment you are speaking about--if you are speaking about irrigation equipment--is pretty fierce. For example, the Tahal group in Israel is very strong in this, and it has enormous support from the World Bank and from the Inter-American Development Bank.

Agricultural irrigation projects per se are usually part of a long-term plan. I became involved in one in Colombia, with a company I was with. We had one small project in that area that was financed through the Inter-American Development Bank. Next to us was a project about 10 times the size that was financed through the World Bank, and Tahal from Israel had the project.

When those projects eventually came to fruition, the overall volume, if I remember correctly, of our project was, say, \$10 million. The overall value of the project next to it, which was in Santa Marta, was something in the order of \$200 million, and the equipment all came from Israel.

Mr. Watson: To change to another area, you mentioned thermal power. Do you have any involvement with anything in photoelectric cell development in some of these areas where the sun is more dependable than it is in Canada? I have heard rumours that in some of these areas--India, Bangladesh and so forth--that do not have water and do not have resources, one of the obvious sources of energy, if we could just harness it, is the sun.

Mr. Young: One of the interesting inquiries we have had recently on solar energy is, believe it or not, from Saudi Arabia. They are very interested in solar energy and, of course, there is no question about their financial capability to develop it. They are interested in investing money in high technology everywhere.

One of the things that comes back to us from our visitations to these countries is: "By the way, Mr. Young, you must know where we can invest some money. Can you give us the names of some good companies that we can invest in to develop things like solar energy?"

We have not had very many specific projects that I can think of. That is one. There is one in Saudi Arabia, and it is connected with the new university that is being built there. But high technology everywhere is of great interest to people with money to invest.

Mr. Littzen: You might have heard the other day about the solar heating project that was sold to the Chinese. There were a group of Chinese people here. It is a small project, and a small company has developed a similar type of equipment for Ontario Place.

They have recognized that part of the heating of the water for the kitchen equipment in Ontario Place is solar energy. It is on the roof of the building, and the same people who developed that have sold a project to the Chinese. It is not large--it is \$3 million--but it is a good start.

Mr. Watson: I can go to a sort of general question in terms of the committee looking into your organization. I feel that one of our functions is to get opinions from you as to whether you are satisfied with your mandate. You have been through this sunset review. This must have been discussed.

Are you satisfied with your present mandate, and is the legislation that is in place, giving you that mandate, adequate?

Mr. Young: We have been remanded for five years, which I think is plenty. Yes, I would have to say that there has been nothing we have asked for to this stage that has not been made available to us.

We broke entirely new ground, as I think all of you will appreciate, when we started out in 1980, and we are still breaking new ground. It has never been our style to say we need a big organization to cover the world, because the world is a big place. We have to learn how to approach these problems before we do things on a larger scale.

We are just now starting to come into our own as far as credibility is concerned, not only with the people we serve, our constituents, but also with the people we interface with--the federal government, for instance, the Canadian International Development Agency, the World Bank in Washington, the development banks around the world and foreign governments.

We are establishing a good chain of credibility with foreign governments. I know I can speak for the Middle East, with which we are on good terms. We are on personal terms with several ministers of the Saudi government, and we have access to many areas. I think the best thing that the Ontario International Corp. can provide is access. That is the name of the game.

Certainly we will need more resources as we go along. That is a budgetary problem. As far as the mandate is concerned, we have enough mandate at the present time. What we have to do is grow within that mandate. I am quite satisfied.

Ken, you are the new president. What do you think about it?

Mr. Littzen: You have heard from the old president; now let us hear from the new president. No, I really have to agree with Jack that we have our plate full at the moment and that the mandate, as written, is quite acceptable. What I can see is reason

to go back, as time goes along; as things develop, we may have to go back to ask for some additional things that are not currently in the mandate.

I would say that at the moment we are providing a service that is not available in any other province in Canada. The proof of the pudding for this is not us, and not the kind of thing you were talking about; it is what our constituents think. What do the consulting engineers of Ontario think? What do the architects think? What are they getting out of it? That is what we are really all about.

Mr. McLean: What is Ontario getting out of it--not only these engineers and the others? What is Ontario getting out of it, as a province?

Mr. Littzen: Absolutely. The bottom line is nine months of manufacturing and service operation.

Mr. McLean: How many millions of dollars a year would you estimate are being exported to Middle East countries?

Mr. Young: I gave you a figure earlier.

Mr. McLean: Yes, you are up to \$20 million so far this year, or something like that, and it has increased every year. When you mentioned that, was that what you were talking about, the amount of export dollars that is going there now?

3:10 p.m.

Mr. Young: I am referring to the number of contracts we have been involved in. It is very difficult to actually give you numbers as to what exports are going into those areas. All I can say is I that can demonstrate, by the activity we have generated, that it is increasing. To quantify that increase is quite difficult, but we are satisfied that it is increasing because of our efforts. We are making a contribution to it.

The Ministry of Industry and Trade as a whole will report in due course on the level of increased exports, and that is increasing from the \$34 million towards the target of \$60 million, which I referred to earlier. As long as our exchange rate remains the way it is and the Canadian dollar is reasonably cheap, we can continue to offer our services and expect to sell them quite easily.

Mr. Littzen: Let me give you a rule of thumb. It may help. Engineering on any major capital project usually represents about five to seven per cent of the value of the project. If there is an Ontario-based firm as a consultant on a project, chances are--not because they want to be Canadian or anything but because they are associated with these manufacturers on a day-to-day basis and work with them--that they are going to have an opportunity to bid on the equipment that comes out of the project.

Earlier, speaking about my background, I was talking about \$175-million worth of fees. You could multiply that, using that as

a five per cent figure, to get the value of the capital projects that were available to that company, and that is just one organization. We have to try to build up our Ontario organizations to that size.

I will give you some figures, again from Engineering News-Record. Among the top 200 engineering firms in the world, the fourth is a Quebec firm, the 11th is a Quebec firm and the 28th is a Quebec firm. We have to go to 47 before we come to the first Ontario firm, 61 is the next Ontario firm and there are no more.

The other figure you should be interested in knowing is that the Quebec firms that are listed are dependent on the export market for 35 per cent of their fees. For the Ontario firms, the figure is 57 per cent. In other words, the Ontario firms do less business within the province by something like 20 per cent than the Quebec firms. That is an interesting statistic.

Mr. Young: It would be very nice if we could quantify accurately all of our results, but I would like to give you a little example of what happens when you get a consulting project.

We assisted an engineering firm to get the design for a water tower type of restaurant in the Middle East--not the size of the CN Tower but something quite relatively modest. The fee they earned from the project was about \$2 million for the design. We entered it into our log, and that was the last I thought I would hear of it because we were only expected to get the consulting fee from the job.

I met the engineer in the elevator in the Ministry of the Environment several months later and he said: "By the way, I have something to tell you. I am glad I ran into you. You know that water tower project we did in Saudi?" I said, "Yes." He said, "Well, there is a control cable in that tower that goes from the bottom to the top. That control cable could be made in Switzerland, Britain or Japan--there are very many places it could be made--but the Korean contractor who got the job to build it decided that since it was designed in Ontario, he ought to buy the cable in Ontario, where the designer could supervise the construction of it." The cable was \$5 million.

I found this out purely by accident, by running into the fellow in an elevator. He might never have told me, but he said, "By the way, I have something to tell you."

We just do not know, but we have to keep on working away and hope that we can quantify our efforts to the extent that we do give evidence that we are active.

Mr. Rotenberg: Would it not be worth your while, just from a self-promotional or statistical point of view, when you get a project like that with this engineer, to have some kind of follow-up six months or a year later, asking: "Has any other business arisen out of the contact we arranged for you?"

It seems to me, just for your own credibility when you come to places like this, you could say: "We have this much, and the

follow-up business as a result of what we did is this much." It would help you and give general credibility to the whole operation in terms of how much export business and how many jobs you are creating as a result of your activities.

Mr. McLean: You have no statistics on that?

Mr. Young: We can produce them on the jobs, but we did not do it for this particular one.

Mr. McLean: Would it be 20 per cent or 30 per cent?

Mr. Young: If we took the \$106 million and took a factor of \$50,000 to a job, so you got 20 jobs for each \$1 million and we have \$100 million, then we have 2,000 jobs. That is very simple arithmetic, but I think that is a significant contribution.

Mr. Chairman: Let me go back just for a second to the top 200. You mentioned that Quebec had number four, 11, and 24, whatever and that Ontario was about the end. Then you went past me too fast--no, I went with you too slowly.

Will you just back up to the point where you drew the conclusion of what that meant? You do not need to reiterate where the Ontario and Quebec companies were, but you drew a conclusion out of that as to where the fees were coming from and the percentages.

Mr. Littzen: Historically, Quebec has contracted out almost all its engineering work, whether it be Hydro-Québec, one of the ministries or whatever. Historically, they have done that. As a result, the major consulting firms in the country are based in Quebec. We have been able to get divisions of those companies into Ontario.

Almost all the thermal power design capability is here in Ontario, even of those three firms I spoke about, but basically they are what they are because of the fact that they started working out of the ministries in Quebec. The James Bay project is an example and so on and so forth.

The Ontario firms have had to depend on going overseas for their work; so the 57 per cent I referred to is necessary for them to maintain their position. If they were getting more work out of the Ontario agencies, such as Ontario Hydro and so on, they would obviously be in a position where they would not be that dependent. There is a 20 per cent gap between the two. I have related that to dependence on government work.

Mr. Breaugh: Let me go back to what I was talking about this morning in trying to get some measurement of whether what you are doing is a good thing or bad thing or how successful.

One of the problems I have with this is to try to get clear in my own mind why the government of Ontario is doing this and what is the purpose of the exercise.

If we take some of the examples of manufacturers you quoted

this morning, it is pretty easy for us to say that if a manufacturing company in Ontario gets a contract somewhere else in the world, that preserves some jobs or creates some new jobs or takes advantage of some technology we have developed here. I think all of us would say that was a good thing.

I have heard you talk a lot about development of new contacts for consultants, finding new jobs for architects, for engineering firms and businesses of that nature. In that instance, I am not quite so sure why we have a government agency that is in essence operating as a broker for an engineering firm, for example. As a politician, I am on less sure ground there. I am not able to turn around and say there are 200 jobs at a factory in Cambridge or wherever. What I would see, though, is that there is a lot of money going into a relatively small number of jobs.

Can you help me out here a little bit about how we rationalize that aspect of it?

3:20 p.m.

Mr. Young: Let me answer first, Ken, and then I will let you have a shot at it.

In all of this, while we put the emphasis on finding the project, the brass ring is the commodities and the products that go into the project. That is the real target, but we cannot get to it unless we get a design capability and unless we get the procurement contract. That is the way we get our opportunity to sell. First, design Canadian goods into it and, second, have the capacity to procure them. Project management is usually the function that does that.

We are trying to access more projects because when we started out we did not know what percentage of follow-up projects would go with a dollar of consulting fees. We used a formula that came out with 29 per cent. In other words, if we earned a dollar in consulting fees, we would sell 29 cents worth of product. In real results that did not turn out to be true; we were selling at least as much in product as we were in design fees. If we achieved the power plant we were talking about earlier, Ken alluded to the fact that seven per cent of the project was design fees, and probably 50 per cent of the project will be product. It is really the product in the end that is going to prove the worth of this corporation.

Mr. Breaugh: I would be very interested in seeing how you would establish that kind of tracking measurement device. Frankly, I am happy that some architects or engineers or small firms will become large firms and do well, but from a political point of view I am not excited about fronting as agents or brokers for these guys. I am very much excited about the idea that if that leads to a further development, if a plant gets started, new technology gets developed or a new market is opened up and the base gets broader, we will be on safer ground.

Mr. Littzen: If we go to the World Bank or any of the major agencies of the United Nations--the World Bank is one and

the United Nations development program is another--we will see that there are approximately 6,000 or 7,000 consulting engineering firms from all over the world registered with those organizations.

If an Italian, French, German and now British consulting firm is chosen to do the project, rest assured that the equipment is going to come from that particular country, whether it be Italy, Japan or wherever. Even though consultants will say they do not do this, specifications are written in such a way that they are open to certain countries and not open to other countries. If you cannot meet the specifications as a manufacturer, you cannot bid or you bid an alternative. That is where having the consultant on the project is ultra important.

One of the faults of our Canadian consultants, if I can call it a fault, is that we have been too honest and we have left the specifications open enough that everyone can bid on them. The Italians and French do not do that. The system will be a closed system as far as they are concerned. I assure you that anyone involved with capital projects in the financial world will tell you that if you have a Canadian consultant on board, Canadian manufacturers are likely to follow down the line because they get the opportunity to bid. They can bid according to the specifications. That is a big item, let me assure you.

Mr. Rotenberg: Can I follow that for a minute, Mike? When a Canadian engineer gets a contract in India or Saudi Arabia, how many draughtsmen are working back in Mississauga on what is going on who would not otherwise have a job? In other words, how many local jobs are there within that consulting firm that would not have been there had the firm not got this contract?

Mr. Littzen: In the case of the two companies we refer to as being in Ontario, and those were number 47 and 61, 57 per cent of their staff would not be working if they were not getting these jobs overseas.

Mr. Rotenberg: How many bodies in that 57 per cent?

Mr. Littzen: Let us take a firm like Acres, for example. Acres is the number 47 firm I was talking about. It has approximately 1,000 people, of whom 57 per cent or 570 would not be working.

Mr. Rotenberg: In other words, by getting these contracts you are in effect preserving 500 or 600 jobs in those areas.

Mr. Littzen: Yes, sir.

Mr. Breaugh: That is what I would be interested in, that kind of trackage. I am really not very impressed by someone saying we have \$10 million. I would like to know how that was distributed. I am not as impressed by long lists of contacts that have occurred. I would like to see some system developed whereby we could reasonably accurately track the results of making a contact for an engineering firm here, what we did in preserving jobs or creating new jobs.

I recognize this is going to be an imperfect science, but it is the kind of thing--

Mr. Rotenberg: We want to know what part of that \$10 million can be spent in Ontario, either on goods or on employment.

If we have a consulting firm working in India on a \$10-million contract and \$9 million is spent in India, what the hell? That does not really help us very much. If \$9 million is spent in Ontario, that really--

Mr. Littzen: There is an element now in the Third World where they want as much as possible done within their own countries. Colombia, for example, says, "Forty per cent of the project has to be done here." That is in dollars. That does not necessarily mean that all the chiefs and none of the Indians are going to come from that area.

You have to recognize that what we are attempting to do here is not what the consultant is attempting. The consultant wants the job; that is his project. What we want to do is the outfall from the job.

Mr. Rotenberg: The job itself reflects in payroll in Ontario. I am rather concerned about how much direct benefit there is to Ontario from getting the outfall, which may or may not happen later, and that is something we would like to know.

Mr. Littzen: As far as I am concerned, I do not think our mandate is spelled out that way. Our mandate is to worry about jobs in Ontario. We do not care whether the head office is in the United States or Japan or wherever, as long as the work is being done in Ontario.

That is one of the things we insist on when we talk to these people because they have a head office in Montreal in many cases.

Mr. Young: Mr. Chairman, over the next period of time I think the committee might appreciate that, with the relatively small group we are, we are hustling like the devil to prove we have a right to exist. One of the things that probably has not been done as well as even we would like it is that quantifying of our results.

We will become more sophisticated as time goes by and as there are more results to quantify and the follow-up that Mr. Rotenberg refers to will be done. We do a certain amount of it. We have to, especially with those clients who are participating in our export success fund, because they have an obligation to pay back the money. If it has been successful, we damned well want to know about it. We are not going to forgive them the loan if they have been successful.

These are all things that will get their share of our priorities, but we really had to pour it on in order to produce some results in the relatively short horizon that we have been in business. This is not excusing the quantification of our results; it is just saying we think we have done a fair job of quantifying,

because we do, as I say, report only those things at which we know we have been successful.

Mr. Rotenberg: I would say I would rather you spent your time getting in new business, as of course you must, if your time is limited.

Mr. Young: That is the way we have seen it.

Mr. Littzen: The one thing we cannot do is make a 24-hour day a 48-hour day. I start my day in the office around seven to 7:15 and I cry when the sun goes down.

That has only been for the last six months, mind you. I do not know how long I am going to keep that pace up, but rest assured our other people back there are doing exactly the same thing. We are trying to catch up in a hurry.

Mr. Chairman: Do you have any more questions?

Mr. McLean: I have all the answers.

Mr. Chairman: I have one more question. We have the Ministry of Industry and Trade and we have Ontario Development Corp. I notice your mandate does permit you to lend money (inaudible) on a project, although I understand you do not.

Mr. Young: No.

Mr. Chairman: ODC lends half a million and so on. I presume that export is one of the responsibilities of ODC and although (inaudible) is an export of product, it could be an export of anything. Could your function be handled right now by ODC, and, if not, why not?

Mr. Young: No, because ODC has no international interface at all. ODC is designed to serve the domestic community.

Mr. Chairman: All right. For export, they would lend money or lend expertise to local people to--

Mr. Young: To bridge export financing, yes.

Mr. Chairman: They have no capacity and no people with contacts outside even to investigate?

Mr. Young: No.

2:30 p.m.

Mr. Chairman: If someone went to them and said, "I want to make widgets for export to Saudi Arabia, please lend me \$500,000," how would he find out whether there is a market for widgets in Saudi Arabia?

Mr. Young: They would work through the trade division of

the Ministry of Industry and Trade, because that is a product inquiry which we would refer to the trade division of Industry and Trade--products as opposed to projects.

Mr. Bros: Just to follow up on that, Mr. Chairman, at the Ontario Development Corp., most of our export activity is limited to financing receivables, so there has to be evidence of a sale.

Mr. Rotenberg: One of my constituents got money on the basis of--

Mr. McLean: What liaison do you have with those offices of the Industry and Trade and--

Mr. Young: Continuous.

Mr. McLean: Very close?

Mr. Young: Yes. Actually, only a few of them are of much value to us because the ones in the US, the five or six of them there--we do not see the US as a priority market. It is our biggest competitor. However, the ones in Europe and Hong Kong--and Japan is not much value to us either because it is principally the developing world we are interfacing with.

Mr. Edighoffer: I was interested in your comments on the export success fund. You say you either lend or give them--

Mr. Young: Committed, yes.

Mr. Edighoffer: That is this year?

Mr. Young: Yes, since the fund started. It bridges the fiscal year. It is about a year.

Mr. Edighoffer: You can lend up to \$50,000, and if a project is successful, they will pay you back?

Mr. Young: Yes.

Mr. Edighoffer: Otherwise it is forgiven?

Mr. Young: Yes.

Mr. Edighoffer: What percentage has been forgiven?

Mr. Young: I cannot give you that at the moment. There ae 27 projects we have entertained for which there is a commitment out. I know quite a few of them have been successful. For some of them, the horizon time is still--the pot is still boiling in most of them. Some of them have not drawn the funds yet. It is relatively new, you see.

Mr. Littzen: I think it might be mentioned that, although the export success fund is less than a year old, as you may know, the follow-up system is intended to be a post-mortem that would be recorded so that we would know how many successes

and failures there are, whether or not the fund is doing the job it is supposed to do.

Mr. McLean: Is that an ongoing fund?

Mr. Young: At the present time, yes.

Mr. Edighoffer: Another question, Mr. Young. It was set up through regulation rather than legislation. Why did you decide that?

Mr. Young: I did not decide that.

Mr. Edighoffer: Why was it decided?

Mr. Young: I do not know.

Mr. Breagh: The answer is easy. The House was not in session, we were in the process of calling an election and there was no time to pass legislation.

Interjections.

Mr. Chairman: I do not know if this is coming through. I will speak in a good, loud fashion. I think Hansard is having certain difficulties with regard to recording, and it may well be that Mr. Edighoffer's comments or questions and mine previously have not come through. Whether they are worthy of transcription or not remains to be seen.

Mr. Breagh: What can I say?

Mr. Chairman: I have exhausted my list. That is it, gentlemen. I thank you for appearing before us this afternoon, especially when Hansard is probably out. I do thank you, even though we are probably not being recorded.

The committee adjourned at 3:34 p.m.

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
ANIMAL CARE REVIEW BOARD

FRIDAY, SEPTEMBER 7, 1984

Morning sitting



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Eichmanis, J., Research Officer, Legislative Research Service

From the Ministry of the Solicitor General

Chalmers, J. J., Solicitor, Legal Branch

Ritchie, J. M., Director, Legal Branch

Witnesses:

Haas, K., Member, Animal Care Review Board

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Friday, September 7, 1984

The committee met at 10:20 a.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
ANIMAL CARE REVIEW BOARD

Mr. Chairman: Gentlemen, I think we can reconvene our hearings. We have with us this morning the Animal Care Review Board. Mr. Ritchie is back from the Solicitor General's office. I do not know which of you is the spokesman. I assume there is no written brief; so perhaps you might identify yourselves for the sake of Hansard and the members of the committee. Do you have an opening statement? Yes? Carry on.

Mr. Chalmers: Thank you, Mr. Chairman. My name is John Chalmers. I am the counsel to the Animal Care Review Board with the Ministry of the Solicitor General.

Mr. Haas: Mr. Chairman, my name is Karl Haas. I am a member of the Animal Care Review Board.

Mr. Ritchie: Mr. Chairman, my name is John Ritchie. I am the director of legal services in the Ministry of the Solicitor General.

Mr. Chairman: Fine. Thank you. Do you want to carry on, whoever is going to make the statement?

Mr. Haas: Yes, I have one, Mr. Chairman, if I might read it.

Mr. Chairman and members of the committee, I have been a member of the Animal Care Review Board since its inception. As you are aware, the Ontario Society for the Prevention of Cruelty to Animals Act, which creates the Ontario Humane Society, has as an objective the prevention of cruelty to animals.

The humane society, in carrying out this objective, makes use of inspectors and agents who have the powers of police officers. The act permits them to enter on to private property and order someone who owns or has the charge of an animal to provide care and treatment, including that of a veterinarian, to relieve an animal in distress.

In addition, animals in distress can be and quite often are seized by the society. When an animal is seized, the owner can be charged with the cost of caring and feeding of the animal, and that charge becomes a lien which permits the society to sell the animal to recover its costs.

As you no doubt are aware, animal owners can be very emotional and sometimes difficult to reason with. They are

well-intentioned and sometimes are not even aware that their animals are suffering because they are doing their best to provide for them. On the other hand, it may be that the subjective decision of an inspector in determining that an animal is in distress may be clouded by his personal view of the persons he is dealing with.

These are the situations that we deal with on the Animal Care Review Board. We are not a judicial body that is interested in making fine distinctions of the law. We are concerned that animals in this province are being cared for and that when a dispute arises on this issue, there is someone to listen and ensure that the people involved are dealt with fairly and are not subject to arbitrary decisions.

This does not occur frequently in the overall scheme of things. In 1983, for example, I understand the society issued 293 orders and seized a total of 574 animals. Of this number, only four of the orders or seizures were appealed to this board. Two of our decisions were then further appealed to the county court but were withdrawn before they were dealt with.

In 1984, up to the present time, I understand the society has issued 175 orders and seized 400 animals. Again, four of these orders have been appealed, and the society is appealing one of our decisions to the county court.

The number of appeals, however, is not indicative of the important role played in this society by the board. For example, one of our decisions may deal with a single household dog or cat. On the other hand, we have dealt with the seizure of thousands of dollars' worth of Arabian stallions. Perhaps the most important function we play is that of affording the residents of Ontario an opportunity to be heard.

On behalf of the chairman of this board, Dr. Alan Secord, I will be pleased to answer any of your questions that I can.

Mr. Chairman: Fine. Thank you, Mr. Haas.

Mr. Rotenberg: Mr. Chairman, several questions arise out of the presentation. You said, Mr. Haas, that your inspectors have the right to enter private property.

Mr. Haas: Correct.

Mr. Rotenberg: Is that a right, or do they have to get a search warrant?

Mr. Haas: That is a right, as I understand it.

Mr. Rotenberg: In other words, if I have a dog and the inspector has reason to believe the dog is not being properly looked after--

Mr. Haas: On a complaint, they can enter private property.

Mr. Rotenberg: They can enter private property without a search warrant.

Mr. Haas: That is right.

Mr. Rotenberg: They have statutory authority to do that.

Mr. Haas: Yes, sir.

Mr. Rotenberg: Let us take that one step further. If they have entered private property, are they suable?

Mr. Haas: Are they which?

Mr. Rotenberg: Can they be sued, or can they be charged with improper entry if they have done something wrong?

Mr. Haas: No. Correct me if I am wrong.

Mr. Rotenberg: I find that a pretty arbitrary power.

Mr. Haas: Well, they have the powers of police officers.

Mr. Rotenberg: I see.

Mr. Ritchie: Mr. Chairman, I think I can answer Mr. Rotenberg's concern quite easily. The power to enter without a warrant exists only where the inspector observes an animal in immediate distress. Otherwise, he enters by consent or he goes and gets a search warrant where there are--what is the terminology here in the act?--reasonable grounds for believing there is an animal in distress on the premises.

Mr. Rotenberg: Just to be sure of that point: He only has the right of entry where he actually can see an animal in distress. He cannot do it on a complaint.

Mr. Ritchie: He may be doing it on a complaint or, I suppose--

Mr. Rotenberg: On a complaint only. He actually must physically see the animal in distress before he can enter a property. That is what you said.

Mr. Ritchie: Unless with consent.

Mr. Rotenberg: I am talking about entering without consent.

Mr. Ritchie: Or, as I mentioned, with a search warrant.

Mr. Rotenberg: I am only worried about the entry without a search warrant and without a consent. He can only do that, you say, where he actually sees the animal in distress.

Mr. Ritchie: That is correct.

Mr. Rotenberg: As a matter of comparison, what rights does a worker for the children's aid society have for entry where a child is in distress?

Mr. Ritchie: I am not totally familiar with that legislation, but the rights are quite broad. My recollection is that they are quite broad, certainly as broad as here, and I think they are a little broader.

Mr. Rotenberg: Just to change gears for a moment: The Ontario Society for the Prevention of Cruelty to Animals issues the order. I assume that includes humane societies as well.

Mr. Chalmers: Yes, it does, sir.

Mr. Rotenberg: Okay. An order is issued and, according to our notes, the person has up to five days to appeal that order to this board. Does the order that the society issues to the citizen have any information notice to the effect that the person has a right of appeal?

Mr. Chalmers: Yes, sir, it does. Printed on the order that is issued to a person is section 17 of the act, which outlines the appeal procedures and the address of Dr. Secord, the person to notify in the event that the person wishes to appeal.

Mr. Rotenberg: Do you ever have a problem where by the time they get the notice and by the time they get the appeal filed, the five days have gone by? Is five days a sufficient amount of time, with the mails these days and things like that? Are they all served personally or are some served by mail?

Mr. Haas: What, the appeals?

Mr. Rotenberg: No, the original orders that the society--

Mr. Haas: They are served personally as a rule.

Mr. Rotenberg: They are served personally.

Mr. Haas: They are always, are they not?

Mr. Chalmers: I think the majority of times they are served personally, at the time the inspector is looking after the animals.

Mr. Rotenberg: I was just concerned about the five-day period for appeal, which seems to be awfully short, and whether the Ministry of the Solicitor General has ever thought of extending the five days, because most other things have more than five days for appeal procedures. Is that not kind of a short period?

Mr. Ritchie: One of the thoughts we had was that the board should have the power to extend time where there is some valid reason.

Mr. Rotenberg: I have just one other question to one of the solicitors. When this board holds a hearing, I assume it is under the Statutory Powers Procedures Act.

Mr. Chalmers: Yes, sir, it is.

Mr. Rotenberg: Those are all my questions, Mr. Chairman.

Mr. Breaugh: There are a couple of things I want to pursue with you. I apologize for being a little late in getting in here. There have been occasions when officers acting under this act went and did undercover work. I am thinking of about three years ago, I believe, when there was an investigation into dog fighting and gambling. Officers acting under the auspices, I believe, of the humane society began an undercover investigation. At what point would your review board be involved in procedures such as that? Or would you be involved in it?

Mr. Haas: We would be involved when an appeal has been sent to the chairman of the board and a hearing has been set up. We have no other function except to hear evidence from both sides and to come to a reasonable and sensible conclusion, if we can, at the end of the hearing.

Mr. Breaugh: In that instance, was the review board involved at all? Were you aware of that investigation?

Mr. Chalmers: No, sir, they were not.

Mr. Haas: We would not be involved because we would not have any knowledge of it whatever.

10:30 a.m.

Mr. Breaugh: I take it there is no monitoring of procedures carried out by a humane society and the board itself.

Mr. Haas: No. Our only function as a board is to hear evidence on both sides and to decide, under the act, whether an animal or animals have been in distress--whether the humane society was justified in taking the action it did.

Mr. Breaugh: How do you make that judgement, if you are not aware of what--

Mr. Haas: Under the act, the humane society is empowered to take action when it has reason to think that an animal or animals are in need of proper care, water, food or shelter; that an animal is being injured, is sick or is in pain or suffering; or that an animal is being abused or subject to undue or unnecessary hardship, privation or neglect. If it has reason to suspect that an animal or animals are in that condition, the humane society is empowered to act.

Mr. Breaugh: Your role as a board is that once it has acted, if someone wants to appeal, he or she can appeal to you.

Mr. Haas: Once it has acted, and if the person it has acted against feels that he or she has been unjustly treated in the matter, that person can enter an appeal to the Animal Care Review Board. A meeting will be set up, and evidence will be heard under oath from witnesses on both sides of the matter.

Having heard the witnesses, and deliberated, we come to the most sensible conclusion, on the basis of the evidence we have heard, that we can.

Mr. Breaugh: I am trying to get some sense of the importance of having a review board and whether it is really serving a function which is particularly useful. Can you give us some idea of the regularity with which you meet and the type of cases you deal with?

Mr. Haas: We meet very seldom. That was pointed out in my statement. So far this year, we have had only three appeals, and they all happened to be from the same person. In 1983, there were only three.

Mr. Breaugh: Could you tell us a little bit about the nature of the appeals? What kind of cases were they?

Mr. Haas: I think it is becoming less and less frequent. Four or five years ago, we had quite a number of appeals in the course of a year. As I said, this year, last year and the year before there have been very few, possibly averaging three or four a year.

Mr. Breaugh: Could you tell us a little bit about the nature of the appeals? What kind of cases were appealed?

Mr. Haas: They vary. There have been dogs and cats kept in conditions that caused them suffering, and horses that have been kept in unsuitable conditions where they were suffering and in distress. We even had a jaguar at one time; it was confined to such a small cage that, in both our opinion and that of the humane society, there was justification for the owner being given an order to change conditions so the animal would be comfortably and humanely kept.

Mr. Breaugh: There is one small difficulty that I have. Usually, when the humane society takes some action against the owner of an animal, it is news because the society does not do that too often.

The actions fall into roughly two categories. In one category, a neighbour thinks somebody is not taking proper care of a family pet. It seems to me quite reasonable that we might have some kind of agency to arbitrate that dispute.

The other category tends to be somewhat larger in scope, where it is alleged that a herd of animals is not being looked after--that somebody is not looking after 20 horses, for instance. Then there is a big raid by the humane society. I am not quite convinced that this board is the way to answer that, because there is a substantial amount of money involved.

The humane society now has a farm up in Newmarket for the care of such seizures, even though it is used--

Mr. Haas: I do not think there is any other redress for an individual who feels he is being unjustly treated. The only other thing he could do--

Mr. Breaugh: Except for this. If I had \$20,000 worth of livestock, and some humane society guy raided it and seized the

livestock, I do not know whether I would want to go to something called an Animal Care Review Board. I would want to go to court over that livestock.

Mr. Haas: So would I. But if it was alleged that two or three dogs or a litter of kittens were being treated cruelly and the humane society came in and seized those dogs or kittens, if you felt it was quite unjustified--that they were being kept perfectly comfortably, fed properly, watered properly and housed properly--what do you do? You cannot afford to go to court; you certainly would not want to hire a lawyer. You come to the Animal Care Review Board and tell your story.

Mr. Breaugh: There is the problem in a nutshell. I am having some difficulty sorting it out. As I follow the actions of the humane society, it sometimes confuses me why it takes action in some instances and not in others. It occasionally gets involved in investigations that I think should be police investigations, not humane society investigations. It is a little difficult to follow the rationale for why it acts in some circumstances and not in others.

When we get to this kind of review board, I can see it as a useful thing where there is almost a kind of domestic argument under way about whether somebody is looking after his dog properly. I would be quite happy with a little Animal Care Review Board that is not a full-tilt court and all of that.

But I am also aware that humane society officers and people who work under your jurisdiction have legal authority to enter property and conduct investigations that a lot of police officers would like to have and do not have. It seems to me that we are on rather unsafe turf there, and I am not quite sure which way we should go with it.

What I am trying to get from you is some sense of whether in your opinion the review board has a limited function and serves it well or whether it is into areas where perhaps it should not be.

Mr. Haas: I will ask Mr. Chalmers to answer that question, because my function merely is to appear when called upon, sit on the board, hear the evidence and give my opinion. Other than that, I have no function, and the other members of the board aside from the chairman have no function either.

Would you answer that question?

Mr. Chalmers: Yes. With regard to large seizures, the type of seizures you are speaking of in which a herd of animals has been seized, you say you may wish to go to court, and that option is always open to the animal owner. But a seizure in which a lien is involved against a herd of animals can add up very quickly. The average price has been \$5 per day per animal for boarding plus the cost of trucking and the cost of any veterinary care that is required while the animals are being loaded and shipped.

With the five-day appeal limit and a 10-day limit in which

to hear the matter very quickly, quite often the board is in a position to determine on the merits of an issue whether the seizure should have been made in the first place and whether the mounting and expensive costs of that seizure should be borne by the animal owner. If he has to wait to get to court in the first instance, it may take weeks or even months before a court date is open. In the meantime, the cost against those animals has risen dramatically.

The humane society has the authority under the act to issue a bill for that cost, and if it is not paid within a certain number of days, it can sell the animals. So even if you get to court a year later, the question of whether you get your animals back or whether you just get part of the money from the sale becomes academic. If they happen to be animals such as Arabian stallions for which you have an affection or animals that are used for breeding purposes or whatever, the money may not satisfy you; you may want the animals back.

I think the board plays an important function in that there is an immediacy; it can at least make a decision. Then either party is free to go on to a county court to appeal that decision if he does not like it; but at least an immediate step has been taken at virtually no cost, or at very little cost, anyway.

10:40 a.m.

Mr. Rotenberg: I would like clarification. Mr. Breaugh said the inspectors of the humane society have more powers than police officers. Is that correct?

Mr. Epp: Sure they do.

Mr. Rotenberg: In what way?

Mr. Chalmers: I think they have more powers than a police officer when it comes to dealing with the seizure of an animal, although police officers can also enforce the Ontario Society for the Prevention of Cruelty to Animals Act if they see animals in distress or are dealing with it.

But it is a highly specialized field, and you really need someone who is very familiar with animals and animal care. Sometimes, determining whether an animal is in distress in accordance with the definition given in the act is not something that is readily observable by most people, even police officers.

Mr. Breaugh: There are just two other points I would like to pursue. Do you keep a log of the number of complaints that are lodged with you and the result of those complaints?

Mr. Haas: I did not quite get that.

Mr. Breaugh: Do you keep a record of the complaints, the nature of the complaints and how many are referred to?

Mr. Haas: Yes.

Mr. Breaugh: Can we get some of that information from you?

Mr. Haas: That is all set out in the finding, which is delivered to the plaintiff and to the members of the board after a case is heard. I have a couple of examples here if you care to see them.

Mr. Breaugh: For example, what was the nature of complaints you dealt with for the last year or so? That is what I want to see.

Mr. Haas: They were varied. They involved dogs, cats, horses and cattle.

Mr. Breaugh: Would you describe them as being mostly--I do not want to say they are minor complaints. I am trying to make a distinction there. If we have a review board that can look at a complaint about the care of a pet, a board that it is not judicial in nature and the complaint is not a big deal, I can see that function.

What I want to determine is whether there is a larger function being performed by your board. Frankly, the only way I can think of to do that is to take a look at the kind of cases you have dealt with for a year or so.

Mr. Haas: I cannot answer that offhand.

Mr. Chalmers: Mr. Haas has copies with him of the decisions the board reached within the last couple of years.

Mr. Haas: Yes. Would you care to glance at them?

Mr. Breaugh: Yes, I would like to have a look at those. They might be of some interest to me.

Mr. Haas: As a matter of fact, this has all to do with Arabian stallions this year and the year before. Would you care to glance at it?

Mr. Breaugh: Maybe if someone else has questions, I can look through this.

Mr. Ritchie: Perhaps I could clarify something for Mr. Breaugh a little bit. Mr. Breaugh asked whether Mr. Haas was saying that the board performs a limited function and does it well. I think that is exactly what Mr. Haas was saying.

The only type of complaint that gets to this board is a formal, legal appeal from either an order made by a humane society or a seizure made by a humane society. All the board does is conduct quasi-judicial hearings. As for formal hearings, as was mentioned, the Statutory Powers Procedure Act would apply to those hearings. Then there can be a formal appeal to the courts. The act provides for an appeal de novo, a new hearing in the county court.

The board does not deal with day-to-day complaints against

actions of the society; it deals only with formal, legal appeals. I was not sure if that point had come out clearly.

Mr. Watson: I do not understand that. If an order is issued and somebody does not like it, then the board can hear a legal appeal; is that right?

Mr. Ritchie: If an appeal is launched and filed with the board, then it is heard in a formal setting, with evidence, transcript and all the rest of it, with counsel present.

I was distinguishing complaints about society actions. Complaints would go to the ministry. The ministry is the only other body having a monitoring or reviewing responsibility.

Mr. Watson: But if a complaint goes to the ministry then, to get back to what Mr. Rotenberg was saying, does the ministry say: "Because of your actions, you have to go to this appeal board. I am sorry, but the five days are up and you cannot go to it any more"?

Mr. Ritchie: If the society had taken some concrete action, such as seizing animals or making an order, then you are correct, we would have to say: "Under the legislation, an appeal is available. You can go that route." If they are out of time, I guess they are out of time. They or their lawyers would have to deal with that problem.

Mr. Watson: I am thinking that those five days are five calendar days and not five working days or anything like that.

Mr. Ritchie: That is correct, sir.

Mr. Watson: So if something happens on a Friday, and it is a long weekend, and on Tuesday they decide to call up the Solicitor General's office and the guy that is supposed to be doing that is not in that day, then you are going into Wednesday so you are past your five days.

Mr. Ritchie: The point is well taken. Earlier, I guess I made brief mention of the fact that our joint thinking is that there should be a power in the board to extend the time for good and valid reason, which there would probably be in a lot of cases.

The reason for the short time is that the society may be holding an entire herd of animals, and there is tremendous expense mounting, or if it is the case of an order, the animal could be suffering and in need of veterinary care. If an appeal is taken, it really has to proceed expeditiously.

Mr. Watson: But that animal, as I understand it, is receiving care because the humane society has the power to seize it.

Mr. Ritchie: If circumstances get so bad that seizure is necessary, that is true. I guess I was envisioning the case where the society has ordered veterinary care. It is not a crisis situation but it feels the animal should be treated. If the order

is appealed, it should not sit around. If there is going to be an appeal hearing, it should be fairly expeditious. So the time periods are very short. They are short because we have live animals and an issue as to their wellbeing.

Mr. Watson: Do you ever get an appeal that, in terms of the order that was issued, would say to get veterinary assistance? I can see appeals in terms of space requirements. They must be spaced, they must receive more food and they must be kept in more sanitary conditions. I find it difficult to envisage somebody who would not do that. Does the humane society specify the veterinarian. Is it a matter of money that the person would not go to a veterinarian?

Mr. Chalmers: One of the most recent appeals that the board did have, in fact, dealt with supplying the name and address of a veterinarian and a blacksmith to the society. That part of the order was appealed.

Mr. Haas: There was a limitation of time.

Mr. Chalmers: The problem was that there had been an ongoing investigation into this particular person's animals. They had been seized at one point and then they had been returned. The society wrote an order requiring some further care and, in addition, supplying the society with the name and address of the veterinarian that would be hired and the blacksmith that would be employed to give continuing care to these animals. That part of the order was appealed.

Mr. Watson: The humane society gave the name of the veterinarian?

Mr. Ritchie: No. The humane society ordered the owner to supply to the society the name of the veterinarian and the name of the blacksmith who would be used by the animal owner. The animal owner did not feel that was an appropriate kind of order. That was appealed.

Mr. Watson: Surely that kind of an order is a legal fight rather than a fight about a cure of an animal. Supplying the name was appealed, supplying the name of the veterinarian or the name of the blacksmith who was going to do the work.

Mr. Haas: The reason it was appealed was not so much the fact that he was ordered to supply the names. He did not want to do it, and he did not feel he had to, but the time given to supply these names was so short that it did not make sense. He was given two days to get a blacksmith. Blacksmiths are very few and far between. To get one on this day and time, I understand probably you would have to make an appointment for a week or so ahead. So it was an order that could not be complied with. That is why it was appealed.

10:50 a.m.

Mr. Watson: What I am getting at is--perhaps there are people who do not--if that was what was needed, if a blacksmith or

a veterinarian was needed, I find it difficult to see anybody who would appeal something that said that was needed. I can see them appealing the length of time or the names, that kind of thing, which becomes an administrative, legal thing, but you say there is no question about the fact that, "Yes, we will get it done."

Mr. Haas: The individual in question certainly kept his animals in a disgraceful condition, and apparently he could not see any necessity for getting a veterinarian or a blacksmith. When he was given an order with a time he could not possibly fulfil, even if he wanted to, he appealed.

Mr. Watson: Are you telling me that the decisions you have to make are sometimes frustrating because you would like to make them in one way according to your feelings, but the other way, to supply a blacksmith in two days, is not a reasonable thing to ask for, even if the person does not keep them in poor health?

Mr. Haas: It was not frustrating in this case because the board felt the order was unjustified and impossible for the individual to carry out, so we threw it out and refused it.

Mr. Watson: On the other hand, you just told us the animals were kept in a disgraceful condition and should have been looked after.

Mr. Haas: Yes. There is no question about that. If an animal being kept in a disgraceful condition and in dirty surroundings is not in distress, we have no power to act against the Ontario Humane Society, nor has the humane society under the act any power to act against an individual. The animal or animals must be in a state of distress before either side can take any action under the law.

Mr. Watson: About the next step of going to court, is there any problem in going to court without going through the appeal? Perhaps that should be addressed to the lawyers present.

Mr. Ritchie: It must go through the various levels of appeal.

Mr. Watson: I want to clarify this following from Mr. Breagh's comments when he was trying to separate the dog and cat complaints from those that are about thousands of dollars worth of livestock, and where you want a court decision. Can you go straight to court without going through this appeal procedure?

Mr. Ritchie: You could bring some kind of an action or seek some kind of injunction or whatever. If the animals have been seized, the legislation sets out an appeal mechanism, and even though you might be taking some other legal route, you would have to follow that legislation, because it is the authority to order the animals returned or not.

Mr. Watson: What a person would appeal to the courts is the decision of the review committee rather than the actions of the humane society.

Mr. Ritchie: That is correct. If the animal owner or the Ontario Humane Society did not like the order given by the Animal Care Review Board, then the dissatisfied party could appeal to the courts.

Mr. Watson: With a little repetition, if the person missed the five days, does that automatically prevent a further court action on the situation?

Mr. Ritchie: I do not know. Mr. Haas can probably best answer that question.

Mr. Haas: I did not quite follow that.

Mr. Ritchie: The question is whether there have been cases when somebody appealed to you and he was beyond the five-day period. What did you do in those circumstances, if there were such cases?

Mr. Haas: There was a case about a year ago. Do you recollect? I think it was by mutual agreement that we made an extension, did we not? It was an agreement with the humane society.

Mr. Chalmers: At that time, I believe the board found that what was intended by the five-day time period in the act meant five judicial days and extended the time for three days.

Mr. Haas: There was quite a thing about the time the appeal was mailed, whether or not it could have got to the chairman of the review board. That is the only case I know of. As I remember it, in agreement with the humane society an extension of the time was made in that case.

Mr. Watson: What about the next time? You have 10 days to render a decision?

Mr. Chalmers: To convene the hearing.

Mr. Watson: In convening the hearing and rendering a decision, is there any time by which a decision must be made?

Mr. Haas: We have never needed that length of time. We have rendered a decision either that day or the following day in every case I have been on. I think I have been on them all.

Mr. Watson: Do you have the authority to reserve judgement on one of these and wait one week, two weeks or two months if you want to? Is there any legal--

Mr. Haas: We have never had to reserve judgement. There has never been a case of reserving judgement on a decision.

Mr. Watson: I understand there has never been. I am asking if, according to the legislation, there could be.

Mr. Haas: I will ask Mr. Chalmers again. I am not familiar with that.

Mr. Chalmers: The only part of the legislation that deals with this is that following a hearing of the board a notice of the decision must be served on the society and the complainant forthwith. It does not give a time period.

Mr. Rotenberg: There is no definition of "forthwith."

Mr. Chalmers: No, there is not.

Mr. Haas: But there has never been any contention on that point.

Mr. Cureatz: We have talked a lot about appeals. When an appeal is made to your board, have the people been represented by counsel, by a lawyer? When appeals have been made to your board, are those individuals who are appealing represented by a lawyer or do they represent themselves?

Mr. Chalmers: Both. We have had people appear without counsel and some with counsel.

Mr. Cureatz: What is your method of procedure? Are there strict rules of evidence or is it a quasi-judicial approach?

Mr. Haas: What are our rules as to evidence being given? The witnesses are sworn and our method is that the humane society is given the opportunity to state its case, the reasons for its action, and to call witnesses. These witnesses can be cross-examined by the other side. Following the humane society, the plaintiff can do the same thing, state his reason for making the appeal and call witnesses who can be and are cross-examined by the humane society. Then both sides sum up. When we have heard all the evidence from both sides, it is left to the board to come to a conclusion.

Mr. Cureatz: Could you indicate the length of time some of your hearings have taken? Have some taken five minutes and others two days?

Mr. Haas: We have had some that took two days. I do not think we have ever had any that took any longer. Generally, we meet at one o'clock for a hearing and it terminates around 4:30 or five o'clock.

Mr. Breaugh: I have a couple of further points. Do you monitor in any way the activities of the humane society?

Mr. Haas: No.

Mr. Breaugh: Have you overturned any decisions taken by the humane society in the last couple of years?

Mr. Haas: Yes, we have. On three appeals this year, we found against the humane society.

Mr. Breaugh: I have only one real concern about this board, having looked at one of your findings. I take it you are not a lawyer. Are you? Is there any requirement that members of the board be lawyers or have any legal training?

Mr. Haas: No. I am retired businessman.

Mr. Breaugh: The only concern I have, and I admit it is a theoretical one, is that in looking at that it is a very legal finding. I suspect a lay person did not write that finding. The lawyers and the humane society are there and it is almost like going to court, but there is no judge. There are only lawyers. I have some concern about that.

Mr. Haas: We were appointed to the board for what was supposed to be our expertise. I have bred animals, dogs and cats. I had a dairy farm of about 110 Jersey cattle. I have a fair knowledge of riding horses, having owned five at one time, and it was felt that I had knowledge to contribute.

I do not have to speak about the background of Dr Secord. He is a paramount veterinarian. I do not think Mr. Lorne Graham has too much knowledge of animals, but he is a very intelligent man. He is a school principal.

Our function, as it was explained to us, was simply to use common sense on evidence presented to us and to come to a common sense conclusion. We were aided by having a counsel beside us so that we could not get into any mischief in the law. We never tried to tread anywhere inside the law; it was not our function. It was simply a case of hearing evidence for or against the case in point and coming to what we thought was a just, fair conclusion.

Mr. Breaugh: What we really have here is a review board which hears complaints about the actions of the humane society--oh, half a dozen times a year. Is that right?

Mr. Haas: That is right.

Mr. Chairman: Thank you. Any questions?

Mr. Edighoffer: Have there ever been any incidents whereby people have considered an appeal and gone to members of the appeal board, and the members have sort of negotiated a settlement before an appeal was heard?

Mr. Haas: No, not really. We recently had a case where it was settled by mutual agreement between the humane society and the plaintiff. Do you remember that?

Mr. Chalmers: Yes, sir, I do. We have had a couple that have been solved where a notice of appeal was issued and then withdrawn.

Mr. Rotenberg: But you cannot be involved in the mediation.

Mr. Haas: Pardon?

Mr. Rotenberg: Your board cannot work as a mediator.

Mr. Haas: Oh, no.

Mr. Rotenberg: The most impressive thing he says, Mr. Chairman, is that if they settle an appeal, they use common sense. I am very impressed with that because it does not happen too often.

Mr. Haas: Well, I hope we do. It is certainly our objective, anyway.

Mr. Chairman: I have no further questioners on the list. If there are no further comments or questions, I will thank you gentlemen for appearing. Mr. Haas, thank you for appearing. Those are all the questions the committee has.

Mr. Haas: Thank you.

Mr. Chairman: I believe we are through with Hansard. We will go on in camera to study recommendations for the agencies, boards and commissions we have already examined.

The committee continued in camera at 11:03 a.m.

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
NIAGARA PARKS COMMISSION

WEDNESDAY, SEPTEMBER 12, 1984

Morning sitting



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Charlton, B. A. (Hamilton Mountain NDP)
Cureatz, S. L., (Durham East PC)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Mancini, R. (Essex South L)
McLean, A. K. (Simcoe East PC)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Witnesses:

From the Niagara Parks Commission:

Allan, J. A., Chairman
Brooker, R., Controller
Harris, J., Superintendent of Engineering
Katzman, A., Vice-Chairman
Wilson, D., General Manager

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Wednesday, September 12, 1984

The committee met at 10:15 a.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
NIAGARA PARKS COMMISSION

Mr. Chairman: We have with us this morning the Niagara Parks Commission, and Mr. Allan, the chairman.

Perhaps, Mr. Allan, before you start, you might identify the people with you and then carry on with your statement. I believe you have an opening statement to give to us.

Mr. Allan: On my left is Archie Katzman, vice-chairman of the commission; on my right are Don Wilson, general manager; Robert Brooker, the controller; and James Harris, the chief engineer.

Mr. Chairman: Thank you. Perhaps you would carry on with your statement, Mr. Allan.

Mr. Allan: I do as I am told.

Interjection: By whom?

Mr. Watson: Protocol has gone all to pieces.

Mr. Chairman: We try to keep this very informal.

Mr. Allan: Gentlemen, the Niagara Parks Commission welcomes this opportunity to appear before your committee. I hope your brief tour yesterday provided you with insight into our park facilities.

The Niagara Parks Commission is Ontario's oldest provincial park and from its inception in 1885 has never relied on the taxpayer for funds to operate. As a matter of fact, this was one of the founding principles, to be self-funding. Another founding principle was to be free to the public. Both of these mandates continue to exist today.

Today's park system has grown in size from a mere 62 hectares or 154 acres, in the immediate area near the falls, to slightly more than 1,130 hectares or 2,800 acres extending along the entire length of the Niagara River, a distance of 56 kilometres or 35 miles.

In addition, we administer Stoney Creek Battlefield Park, situated in Stoney Creek, and Charles Daley Park, in the town of Lincoln.

The Niagara Parks Commission was established with the passing of the Niagara Falls Park Act by the Ontario Legislature on March 30, 1885, although the park did not open to the public until 1888.

The Niagara Parks Commission School of Horticulture was established in 1936 on 100 acres of land adjacent to the lower Niagara Parkway. With a total enrolment of 36 students, this school, which is the only one of its kind in North America, usually graduates 12 students a year. These students are vigorously sought by prospective employers for positions in parks, nurseries, greenhouses and other horticultural enterprises.

Park greenhouses, first constructed in 1894, and renovated following the conclusion of the Second World War and also renovated in 1979, attract nearly 368,000 people annually. Floral shows throughout the year, such as at Christmas and Easter, delight thousands of visitors to the park.

In 1951 the commission constructed an 18-hole golf course between the Whirlpool Rapids and the school of horticulture. In 1966, a par three golf course was constructed at Oak Hall.

In co-operation with other agencies, the Niagara Parks Commission instituted the nightly illumination of the falls in 1925, and this has been a great success.

Oak Hall today is the location of the administration headquarters of the Niagara Parks Commission. Until October 1982, the commission's headquarters were located in Queen Victoria Park. These premises now house the Niagara Parks Police and the commission's cash office.

The concern of the commissioners has changed a great deal since 1885. Then it was a question of drawing people into the park. Today, parking and traffic are the big problems. In order to meet this challenge, a new people-mover system will be introduced in 1985. This system will transport visitors from the rapids view parking area just south of Dufferin Islands, back to Queen Victoria Park. It is anticipated that this will assist greatly in relieving the congested vehicular traffic problem now existing.

The commission holds monthly meetings. The powers of the commissioners as defined by the legislation are far from absolute, since all regulations, the purchase and sale of lands and borrowing of money are subject to the approval of the Lieutenant Governor. An annual report is submitted to the Ontario Legislative Assembly through the Minister of Tourism and Recreation.

The immediate supervision of the park is in the hands of a general manager appointed by the commissioners. The general manager is also secretary to the commission.

Responsible to the general manager is an assistant general manager and a number of department heads. The department heads reporting directly to the general manager include a merchandise and retail operations manager, a food services manager, an attractions manager, a superintendent of parks, a superintendent

of engineering, a controller, and a director of public relations and advertising.

Although Niagara Parks Commission employees are not civil servants, salary scales are tied to the civil service classification system. At present, there are 247 regular staff members employed by the commission, the same number as in 1967. The number of seasonal employees varies throughout the year to a high of about 1,200 in the summer. Total payroll costs amounted to nearly \$11 million in 1983.

Our revenue comes from two major sources. The commission receives water rentals from the power companies and revenue from gift shops, restaurants and attractions operated by the commission.

In its first year of operation, the total revenue of the Niagara Parks Commission was less than \$5,000. In 1983, the gross income was more than \$26.6 million and water rentals accounted for \$3.1 million of that. Net profit after the cost of maintaining the parks in 1983 was \$3.4 million.

On up to one million horsepower, Ontario Hydro pays the commission one half the rate paid to the province for power generated at Sir Adam Beck generating station. This rate is adjusted annually, based on the change in the consumer price index. The commission also has a water rental agreement with Canadian Niagara Power Co. This agreement provides for the company to pay the commission for each horsepower up to a maximum generation of 100,000 horsepower at the same rate paid to the province by Ontario Hydro.

The major revenue comes from 32 facilities throughout the park. In 1983, the gross income from this source was \$21.7 million and the net income was \$7.2 million. These facilities include the scenic tunnels, the aerocar, four major restaurants, 11 snack bars, seven gift shops, two garden shops, four historic sites, three parking lots, two incline railways, two golf courses, two campgrounds, viewmobiles and a marina. Our prices for these attractions are competitive. We do not wish to compete unfairly with the local tourist industry.

The commission also provides and maintains many services and facilities that do not generate income. They do, however, create expenses; in 1983, their cost to the commission was \$8 million.

Maintenance costs for the horticultural department amounted to more than \$3.1 million. The engineering department, which is responsible for maintaining all buildings, structures, the 35 miles of parkway plus service roads for residences on the parkway, street lighting, water lines, storm and sanitary sewers and so on cost \$2.5 million. The parks police required an expenditure of \$800,000. The administrative overhead budget for 1983 amounted to \$1.6 million and included \$300,000 for advertising and public relations expenses.

The commission provides many free services, including swimming areas, band concerts, picnic areas, a greenhouse

conservatory, a nature interpretive program, boat launching ramps and cross-country skiing.

With respect to future development, the aims and objectives of the commission have changed very little. Stated simply, they are to provide an opportunity for park visitors to view the park, the Falls, the gorge, and the river under the most pleasant conditions and circumstances possible. Approximately 12 million people visit the park each year.

Annually, the parks commission makes capital expenditures to improve the areas under its control. These capital expenditures presently amount to approximately \$3 million each year.

From the beginning, the Niagara Parks Commission has viewed its responsibility for the care and preservation of the lands they administer as a high public trust. The commission recognizes its duty, as all former commissions have done over the 100 years of its existence, to create a good impression in the minds of the millions from around the world who visit the park each year.

Mr. Chairman: Thank you very much, Mr. Allan. Are there any questions?

Mr. Breaugh: I have a couple to start off.

I would like to get into the rather unusual concept of this agency being self-sufficient, and the problem of you generating money which the Treasurer (Mr. Grossman) apparently has his eye on. Could you fill us in on the status of that interesting little quandary, where the Treasurer is looking for profits from a very respected parks commission, and where the parks commission is doing its best to see that it generates enough income to carry on its mandate, to provide people-movers, and things like that?

It seems to me that we are in a rather ironic situation here. The Treasurer sees lots of income being generated there, and, obviously, would not mind getting his hands on it. The parks commission has financial obligations to meet. There seem to be some sets of negotiation going on. Could you briefly fill the committee in on that?

Mr. Allan: I know that it is the general feeling of the commissioners that the format of the Niagara Parks Act has been responsible, admittedly, for its successful operation. Anyone who has visited the park at any time realizes that it costs a great deal of money to keep the park in the condition it is in. This is an incentive to the staff.

I was amazed, at first, to think that the staff worked hours that were quite different from those of the civil service without complaint. They worked on Saturdays, Sundays, evenings and such, with the incentive to make money and to have the money to spend on the park. I think that this is what is really responsible for its success. To change that would be playing with fire.

Mr. Breaugh: Let a little rookie politician back up and

try it again, then. It is a pleasure to have it done to you by a real pro, Jim.

Can we now try to address ourselves to the little question of the Treasurer of Ontario eyeing all of this success, this income, and perhaps looking for a means of grabbing some of that? I would suspect that, as the parks commissioner, you are rather taken with the idea that you need that income to continue to make improvements to the park itself.

Mr. Allan: We have had no indication that anybody was thinking of changing it.

Mr. Breagh: None at all?

Mr. Allan: No.

Mr. Breagh: None at all. So the Treasurer of Ontario has not, then, begun any series of meetings or made any outward signs that he would like to change this financial arrangement somewhat? You have no indication of any desire on the part of the province to change the funding process?

10:30 a.m.

Mr. Allan: We have no official indication. We have heard, as you mentioned here this morning, some things. We wondered if rumours were circulating, but we have heard nothing official.

Mr. McLean: We just heard it.

Mr. Breagh: That is why I am here.

Mr. Rotenberg: I always wondered why you were here.

Mr. Breagh: David, stay out of this. Let me try a second one. The problem that I would see you are into now is that you do have in the area some competition of a substantial size--the Skylon, Wonderland, Marineland and all that stuff. There seems to be a bit of conflict now for the major operator, the parks commission, which is getting some competition from the private sector. Obviously, not everything you want to do will be in strict agreement with what the private sector might want to do. Do you envisage that this is going to become more difficult?

Mr. Allan: I do not think we look upon having competition from the tourist industry because, certainly, the park does not have facilities to take care of all the tourists who visit Niagara Falls. I think a good tourist industry complements the entire operation.

There have been times when the tourist industry felt we were competing with it, but that is not our intention. We limit the things we do to things we think fit in with the park image. The remarks you heard, probably in the last year or so, have been an exception rather than the general rule.

Mr. Breaugh: Let me try to get a little more specific then. When you establish what you call your people-mover system, people who operate different attractions in Niagara Falls will have some vested interest as to whether your route goes by their front door, how frequently you go there, whether you design a route which takes people to Marineland or to the Maid of the Mist tour, how frequently you do that and how convenient it is.

There are obvious conflicts there for two reasons. First, you will be a central agency trying to put together a transportation system for the whole of what the tourists want to see of Niagara Falls. Two, you will also be the operator of restaurants and you will have lease arrangements with things like the Maid of the Mist. So there is a conflict there which cannot be avoided. I would like to know how you deal with that kind of conflict.

Mr. Allan: In planning the movement of traffic, we have not particularly taken into consideration the funnelling of traffic towards our operations. The plan of developing the traffic movement is to avoid traffic congestion. Our opinion is that this is beneficial to the tourist industry, as it has been. By sampling visitors as they come and go, we have found out that many people have come to the area intending to park and spend some time, but they could not find a place to park and they have driven right on through.

By providing a means of parking for everyone who wishes to stay, our intention is that this will assist the tourist industry in doing what it has been trying to do for a long time, and that is to have the people spend more time in Niagara Falls. That is the plan we have for the movement of traffic from the parking lot back to the area.

We take into consideration the other operators in the tourist industry. For instance, we go right down to the bridge and provide an entrance to Clifton Hill, which is a very active operation. There are a number of operations there. They are very actively operated by independent people. The tourist industry would not agree with what I say, but I still think our contention was that we were trying to do that and to fulfil the purpose for which the Niagara Parks Act was passed. It was passed to provide a better environment and a better possibility of enjoyment of the falls and the area for the visitors who come there.

Mr. Breaugh: Okay, but what if I am a private operator and I have sunk \$2 million or something into Mike Breaugh's Fun Land? The parks commission encourages people to park up on the top of the hill and puts them all into this little people-mover so that first they visit all your attractions. By four o'clock in the afternoon when I get them, the dad is out of money and the kids are yelling. He is unlikely to want to drop in to my investment here and lay a little cash on me. How do I complain about that? How do I sort that conflict of interest out?

Mr. Allan: When this was being considered it was thought that this would be extended. A traffic committee is sitting now and it is just getting ready to employ consultants to propose a

way of continuing and providing traffic movement for the whole area.

Mr. Breagh: Okay, I will be a little more specific about this. If, for example, I am an entrepreneur somewhere and I do not like what my municipality is doing for a transportation system, if it has set up a bus line that goes around the town but does not come anywhere near my facility--a shopping centre or whatever it is--I can go the council or a committee of the council and complain there; if I do not like what happens there, I can probably get a lawyer and go off to the Ontario Municipal Board. There are a lot of vehicles to redress what I think is a grievance. How do I do that with the Niagara Parks Commission?

Mr. Allan: I think you realize that we have to limit our expenditures to the park area, but there is certainly the possibility of providing further transportation facilities. This committee is currently sitting and engaging consultants to make recommendations for a continuation of the traffic.

Mr. Breagh: How do I do that? If I do not like what your traffic committee is recommending as the preferred route, how do I even complain about that? To whom do I go?

Mr. Allan: I think this group of consultants will be listening to proposals on how the two traffic systems can be welded together to provide a system throughout the whole area. There is nothing to prevent that.

Mr. Breagh: There is nothing to prevent me from setting up my own transportation system, either. If I wanted to I could build a people-mover of my own and move them around to my sites, but that is not really the question I am trying to ask here. If I had an objection concerning the municipal transit system, the means of registering the objection are clear and the vehicles by which we would sort this argument out are relatively clear. How do I do that with the parks commission?

Mr. Allan: The city is the group that is sponsoring this study and the proposal to continue to extend the movement of traffic, so it would take in the whole city. You would go to the city or the mayor.

Mr. Breagh: For example, if the city of Niagara Falls--and I do not think this is very likely--should take the position that the parks commission is being just a little bit too piggish here, that it was designing a transit system that is going to meet its needs for sure but not the needs of the rest of the community or the business community or whatever and it has decided you should not do it quite that way, how does it do that?

10:40 a.m.

Mr. Allan: I think the one thing that to the commission is a very solid fact that is not being agreed to by a great many is that, if we were selfish only as far as money is concerned, we would not do anything. Our business operation is pretty satisfactory as it is. We do not think the money we are spending

to improve the parking and the movement of traffic is a sound investment; we will never earn the interest on the money that is being invested.

This is going to cost us a little more than \$10 million, and we do not propose ever to make that a financially profitable operation. In fact, we will be well satisfied if our financial operations are as good afterwards as they are now. We did not need to do this from a financial point, but to have the people enjoy their stay at Niagara Falls we had to provide parking facilities and a means for them to get around.

Mr. Breaugh: Forgive me for saying so, but I am hearing that there is no vehicle for an individual to voice a grievance. If the parks commission does not want to do it, the parks commission is not going to do it. Am I right or am I wrong?

Mr. Allan: We are a part of the city traffic committee and it has been meeting for two or three years.

Mr. Breaugh: Are you saying the city would have jurisdiction over the parks commission?

Mr. Allan: It has jurisdiction over the transportation outside the parks.

Mr. Breaugh: Outside the parks.

Mr. Allan: Yes. There is no reason that there could not be a tie-in.

Mr. Breaugh: I know there is no reason there could not be.

Mr. Allan: You will find the parks people very co-operative.

Mr. Breaugh: I know. You still leave me with the impression that there is no way to redress that grievance.

Mr. Allan: There sure is.

Mr. Breaugh: Will somebody tell me how?

Mr. Allan: Mr. Harris has been the head of the technical committee that advises the city committee.

Mr. Katzman: Mr. Chairman, Jim Harris is our chief engineer who was in on this initially and can perhaps enlighten you as to where the Niagara Parks Commission stands now with respect to (a) the people-mover system and (b) our tie-in with the city of Niagara Falls and what is happening with respect to the people-mover and the falls.

Mr. Chairman: Mr. Harris, would you come up to the desk in front of Mr. Katzman where there is a microphone?

Mr. Cureatz: Mr. Chairman, as a supplementary while Mr.

Harris is coming forward, I wonder if he could relate to us, along the lines of what Mr. Breaugh has been asking, whether he or anyone on the committee has had any serious objections to the approach being taken with respect to the proposed transportation system from any of the private people who operate the other attractions.

Mr. Harris: Mr. Chairman, for some 15 years the Niagara Parks Commission has been extremely concerned about the traffic congestion in Queen Victoria Park. About 10 years ago, we had an internal staff study that suggested some remedial measures might be taken. Because there was only one engineer, a draughtsman and a secretary at that time, we obviously needed some outside help. We engaged the firm of De Leuw Cather Canada Ltd., DelCan, to prepare a study to remedy the conditions in Queen Victoria Park. I stress within Queen Victoria Park, because that was their mandate.

They produced this progress report on the improvement of conditions within the park in 1979. The document was made public and there was opposition from the visiting convention bureau in the city of Niagara Falls. This prompted the city of Niagara Falls to prepare another study and that study was prepared starting in January 1980 by the city of Niagara Falls, and on behalf of the industry, to cover the tourist areas of the city of Niagara Falls that were not covered by this document.

On that committee were representatives of the city, of the bureau and of the major tourist industries you have mentioned in this dialogue--Marineland and Maple Leaf Village--and representatives of the bureau itself, plus the Niagara Parks Commission at every meeting for five years. There is a meeting on Friday of the steering committee, and they still do not know what they want to do.

We have been co-operating with that particular group for five years. We asked the city for comments on this in November 1979. We received their comments in February 1982. Their comments requested that the Niagara Parks Commission build the parking lot for 500 spaces, and institute what they called an "interim people-mover system" until such time as they could resolve how they were going to proceed with what was called a "loop system," the recommendation of the Lanmer-Fenco report, which was adopted in principle by the people on that particular committee.

The meeting of the steering committee on Friday will look at what the ultimate people-mover system may well be, to encompass the park and the surrounding areas, as you have so well described, the other major tourist attractions. The recommendation of the Lanmer-Fenco report was to use buses. In some people's minds, buses are not the answer, nor are the combination-type buses that we have produced.

The city asked us to introduce the interim system, and we are co-operating with the city in that regard. They asked us to reduce the number of parking spaces that were contained in this document from 3,500 spaces to a maximum of 2,300 spaces. We are co-operating in that regard, starting with 750 spaces and building up as the need arises.

Friday's meeting is, again, a co-operative meeting with the people from the bureau and the city to see if we can move ahead on a people-mover system that would be more acceptable to them and would encompass the areas you have described.

Mr. Breaugh: I must be asking the right questions, because nobody is choosing to answer them this morning.

I appreciate that when we are all being reasonable and co-operative, we do not need any of these kinds of appeal procedures or referees to sort it out. I am trying to get at the nut, though. I know you want to co-operate with the city, the private operators, and all that. I also know the world sometimes has pig-headed people in it who do not want to co-operate, who are obstinate, who think you are wrong.

Normally, we would provide some vehicle whereby even the person who is the most pig-headed one in the world, the most obviously wrong, can have his day in court, so to speak. There is some process whereby a dispute is arbitrated, in which we turn to some group and say: "Now, you wise people arbitrate this dispute, and arrive at some decision which is binding on both parties."

I am still not hearing that there is anybody around who can do that in a dispute between a private operator or the city of Niagara Falls--or anybody else, for that matter--and the parks commission, is there?

Mr. Allan: Mr. Chairman, perhaps I can answer that. At the meetings that have been held by the committee--not the steering committee; the steering committee reports to this committee, which was appointed by the city of Niagara Falls--they have had ample and several opportunities to make their feelings known. They have had their day in court.

Mr. Breaugh: I think the answer is that they can voice an opinion, but that there is no means of arbitrating a dispute. I do not know why nobody wants to say that. Let me get off that, then.

One of the things I commend you very highly for--and I think most of the members here were very impressed yesterday, even in the lousy weather--is the facilities that are there, and the type of operation that is being run by the parks commission. I think most of us who have visited Niagara Falls over the years have been continually impressed that the parks commission runs a good show, that there is something which is truly unique there and which has been preserved in a way that is, if I may say, kind of Canadian about it. It is clean, neat, safe, and pretty to look at, and it runs well.

10:50 a.m.

There are parts of Niagara Falls that you could not really say that about. There are parts that are frequented by operators who are--I do not know whether you want to call them names or not--not as reputable as some operators, ranging from hotel rates

to the kinds of souvenirs they sell, to the way they treat the travelling public.

I am not sure what the vehicle would be, but is any consideration being given to trying to put in place some means whereby the travelling public, when it goes to a tourist area such as Niagara Falls, can say, "Hey, I have been ripped off," other than by calling the Better Business Bureau or something such as that, which people seem somewhat loath to do? Is there any means of setting a standard for an industry or providing some mechanism whereby there would be--for example, we inspect the bejabbers out of just about everything in this world but we do not inspect who fleeces somebody for a motel room for the evening. Is there any means of doing that or should there be?

Mr. Allan: I might say to you first of all that we have tried religiously to mind our own business. I do not think I want to express an opinion on that. If we run the parks capably, we will probably perform the function we have undertaken. Perhaps you should be talking to the mayor of Niagara Falls for some of those answers.

Mr. Breough: Perhaps I should. In conclusion then, as someone who went around a lot with a young family, you can see the most wonderful sites in the world, you can have a great day looking at the falls and seeing the parks and all that, and if at the end of the day with a couple of squealing kids you are hot and tired and get ripped off by somebody who is running a hotel, motel, restaurant or souvenir shop, the feeling you leave with is one of anger and frustration.

It is kind of hard to remember the nice part in the morning when your kids were well rested and you were all enjoying the beautiful view. What stays in the back of your mind forever and a day is that at the end of this whole process somebody ripped you off and there was nothing anybody could do about it. It leaves you with a very bad feeling.

I would suggest that you may want to mind your own business, but I suspect that part of your own business is to see that people who visit the falls, the falls area and all the wonderful attractions leave there feeling good about it. I know you work very hard and spend a lot of money to make sure that people do. I am just trying to point out there may be some things going on there that should be of some concern.

Mr. Allan: I am certainly glad to listen to you.

Mr. Breough: I am getting tired, I cannot keep up with 89-year-old people any more.

Mr. Katzman: Mr. Chairman, further to Mr. Breough's question on the tourist operators, at every meeting we have attended since 1979 the Niagara Parks Commission has expressed our co-operation with the city to make this system work.

As far as the tourist part of it is concerned, Mr. Breough should know the hardest problem we have is getting the tourist

operators themselves with whom we meet to agree to agree. They have a little thing going among themselves that they cannot seem to sort out themselves. Marineland has one view, another operator has another view. We just sit there and listen to them.

All we keep saying to them is: "Fellows, when you sort out your problems, we are ready to help you." They seem to have their own problems trying to agree among themselves. This is what we constantly come up against.

Mr. Breaugh: I just feel that in a major tourist centre such as that, there is a need for some kind of co-ordination. I recognize that people who are in such a highly competitive business as the tourist industry do not have a strong bent towards co-operation with the competition.

Mr. Katzman: There is no question about that. Niagara Falls is basically based on a 100-day season. There are some very good hotel operators and restaurant operators in the city of Niagara Falls; by the same token, there are the other kind.

These people are represented by their own convention bureau, the Niagara Falls Canada Visitor and Convention Bureau. We meet with them on a regular basis. Sometimes it is chaotic when we sit there and listen to them argue among themselves. That is totally unrelated to the people-mover system. It is an ongoing thing.

Mr. McLean: Mr. Chairman, yesterday was a very interesting day. I was amazed at the extent of the park commission. There are a couple of questions I wanted to ask on the property. Do you pay taxes to the local municipalities?

Mr. Allan: We pay grants in lieu of taxes to the local municipalities.

Mr. McLean: Are the municipalities satisfied with the arrangement they receive in lieu?

Mr. Allan: We have been doing this for a only few years now. I think they were very happy to get this. We had no difficulty in assessment or that sort of thing.

Mr. McLean: Before this came into place, how was it based? Was it on assessment taxes?

Mr. Allan: If you will remember, I think it was pretty much solid government policy. Taxes have always been paid on those areas where there were rentals or money-making. How much did we pay last year?

Mr. Brooker: We paid \$300,000 last year. This year it will be close to \$400,000.

Mr. O'Neil: That is in municipal taxes?

Mr. Brooker: That is correct. That is business and property taxes.

Mr. Epp: How many acres do you have there?

Mr. Allan: The acres are assessed as park property. We have 2,800 acres.

Mr. Brooker: It is 2,825 acres.

Mr. Epp: Based on some kind of value, what kind of value would you place on the property you have?

Mr. Allan: We have never thought of it.

Mr. Epp: Would you say \$100 million or \$200 million?

Mr. Katzman: It goes from Fort Erie right down to Niagara-on-the-Lake. A public enterprise such as McDonald's would pay anything to get on that piece of property.

Mr. McLean: Who owned the property where your large parking lot is being put now? Was that owned by the commission beforehand?

Mr. Allan: It was purchased just a few years back by the commission.

Mr. McLean: With the amount of money that is being spent on that property, will that increase your grant in lieu or will it be the same as if it were vacant land?

Mr. Allan: Is that included in the Assessment Act?

Mr. Wilson: We normally pay for land on the basis of the Provincial Parks Municipal Tax Assistance Act. We pay full grants in lieu of taxes on the business buildings and other similar buildings on the parkway, but not on historic buildings and that sort of thing. The land itself is paid for on the basis of the Provincial Parks Municipal Tax Assistance Act.

When that land was bought, we did assure the city it would not lose any tax money on it; so we will be paying taxes on it.

Mr. McLean: Since you are putting about \$10 million into that, is your grant in lieu going to increase according to the amount of money that is being spent on it? You are not paying the same on vacant land as you are on land that is used for that parking space that is going in.

Mr. Wilson: I do not really know. It depends on how we are assessed. We have not been assessed on it yet. We will obviously be assessed on the buildings on it, but I do not know how the parking lot will be assessed.

Mr. McLean: That pretty well answers it. Then you are going to be assessed? There is going to be an assessment on it and you will pay a grant in lieu according to the assessment?

Mr. Wilson: Yes.

Mr. Allan: We will pay taxes on all the buildings.

Mr. McLean: I had some other questions, but in his short presentation Mike asked most of them.

Mr. Breaugh: I want to say a couple of words about Vespra township this morning.

Mr. Rotenberg: Please do.

Mr. Epp: I want to get back more to that competition between the parks commission and private enterprise. Have you had any formal or informal complaints by individuals or companies with respect to competition between individual private enterprise and the parks commission in the last five years, let us say?

Mr. Wilson: Light years ago we used to get some complaints about competition, but that has not been the case recently. Perhaps paying grants in lieu of taxes has helped. I think also there is no question that the private industry around the park is there because of the falls and the park, and there is a recognition of this. Years ago there were more complaints than now. I cannot remember any for some time.

Mr. Epp: So there have not been any for a number of years to the best of your knowledge?

11 a.m.

Mr. Wilson: I do not think so.

Mr. Epp: If they were to come, they would come to your attention?

Mr. Wilson: I am sure.

Mr. Katzman: Just one further point on that, Mr. Chairman. The committee should know that if anyone does have a complaint and wants to appear before the commission, all he has to do is call Mr. Wilson and he would normally appear on the agenda at our next meeting. We listen fully to them. Everyone gets a full, open hearing any time they want to appear before the commission.

Mr. Epp: Has there been any occasion for the parks commission to be involved in litigation or anything of this nature in the last number of years? Has anyone taken the commission to court, or have you taken anyone to court? Has there been any occasion for litigation?

Mr. Allan: We have had some litigation.

Mr. Katzman: Just recently. I think Mr. Wilson can update you on the Fort Erie situation.

Mr. Allan: We had litigation when we purchased this parking lot. There was a portion of land within the other land that was owned by a private individual, and we had to expropriate

that. With the delays and everything, we decided we did not want to expropriate very often.

Later on, we agreed to take over some land that was owned by a railway in Fort Erie and was just lying there. On that land was a person who had a marina. I do not think you want us to go into the details. There was a mistake made in the expropriation, and it turned out that it had to be repeated. A settlement with the railway has still not been finalized. I think that is the only litigation we have been involved in.

Mr. Epp: That is the only expropriation you have had in the last five or 10 years?

Mr. Allan: When we expropriated, there were some other properties in Fort Erie other than the railway property. As a matter of fact, the expropriation of the railway property was a friendly expropriation because the railway was having difficulty providing a deed. The railway agreed to the expropriation so we would get the deed. In the meantime, there was an error on the part of our solicitor and we had to begin all over again.

Mr. Epp: Was that an in-house solicitor or someone you--

Mr. Katzman: That solicitor is deceased now and has since been replaced with a local solicitor.

Mr. Epp: Is the solicitor on a retainer?

Mr. Katzman: Yes, he is.

Mr. Epp: What is the retainer?

Mr. Wilson: It is \$7,500 a year.

Mr. Epp: What would be the expense to the parks commission of legal fees during the course of the year?

Mr. Allan: Without this expropriation?

Mr. Epp: Yes, just as a normal--

Mr. Allan: Just as a normal operating expense.

Mr. Wilson: Last year, it was \$11,700.

Mr. Allan: But that included part of the--

Mr. Epp: Part of the retainer?

Mr. Wilson: That includes the retainer and the expropriation problem as well.

Mr. Epp: What does that retainer include? What do you receive for that retainer?

Mr. Wilson: From time to time, when we get questions about land ownership along the parkway or when we need to change

an order in council or this type of thing, he attends the commission meetings, and he gives legal advice to our police on an as-needed basis.

Mr. Epp: He attends committee meetings on request or on a regular basis?

Mr. Wilson: He attends the commission meetings on a regular basis.

Mr. Epp: So it would be a dozen times a year?

Mr. Wilson: Yes.

Mr. Breaugh: Could we explore for a little while the arrangements with Ontario Hydro and the Canadian Niagara Power Co.? The staff report suggests it is not clear why the Treasurer receives half the rate. Can one of you elaborate a bit for us on how the rate is struck in those financial arrangements?

Mr. Allan: Perhaps I should begin at the beginning. The federal government after the War of 1812 gave away a lot of land to the veterans, but it reserved a strip a chain's width along the bank of the river for defence purposes. It soon came to the conclusion that it did not need it for defence purposes and, without going into the details, it ended up as the property of the Niagara Parks Commission. That has been the key to the success of keeping all industry away from the river.

The Niagara Parks Commission controls the access to the river almost from Niagara-on-the-Lake to Fort Erie. When Hydro wanted to build a power plant, it had to make an agreement with the Niagara Parks Commission, and the agreement was that it would get certain power rentals for the amount of power produced. It was found out that those rentals amounted to more than it was wise for the parks to have. At least, the government thought that--the Treasurer at the time thought that--so it was cut down to half.

Mr. Breaugh: How did you let that mistake happen? The staff report suggests there was an agreement with Ontario Hydro but it expired at the end of 1982. What happened after that?

Mr. Wilson: The master agreement expired in 1982, and the individual agreements have the authority to carry on until the master agreement is renewed--and that is still not the case--between the Treasurer and Ontario Hydro.

Mr. Breaugh: So are we flying by the seat of our pants here? Is this a gentlemen's agreement or what?

Mr. Wilson: No. There is an agreement in the original one that the individual agreements would stay in effect until the master agreement was renewed. The master agreement does not involve the Niagara Parks Commission; it involves Ontario Hydro and the Treasurer.

Mr. Breaugh: But this is \$2.6 million. This is a lot of

money, and we are saying that nobody is working on this agreement or extending it or negotiating it?

Mr. Wilson: It is automatically extended until a new one is agreed on, and they are working on it. Meetings are being held now.

Mr. Breaugh: I could see Mr. Grossman and the people at Hydro sitting around and saying, "We will let this old agreement just kind of roll on until we negotiate a new one," if we were talking about \$1.95. But we are talking about \$2,604,223; so there is a lot of money here. What is the status of those negotiations? I take it there is a set of negotiations under way here.

Mr. Wilson: Yes, but the cheques are still coming in every month even though it has expired. As far as we are concerned, we are covered by the master agreement, which says the old agreement will continue until a new one is negotiated. It has not made any difference to us so far.

Mr. Breaugh: Okay. Let us clarify who is doing this negotiating.

Mr. Wilson: The negotiations for the master agreement are between the Treasurer and Ontario Hydro.

Mr. Breaugh: So even though this means \$2.6 million to you, you are not even cognizant of it?

Mr. Wilson: Oh, no.

Mr. Breaugh: You are aware.

Mr. Wilson: We have already been informed that when the master agreement is agreed to, there will be meetings going on, and in fact we have been invited to them.

11:10 a.m.

Mr. Breaugh: Because this is a substantial chunk of money, do you have any assurance that there will be a floor put in these negotiations? For example, if you are committing yourselves to \$10 million or so to put in a people-mover system, it would seem to me that you would want to know there is a floor in some agreement so you are not going to have a sudden drop in income.

Mr. Wilson: The indication we received was that we will continue on the same basis as we had then.

Mr. Breaugh: What assurance do you have for that?

Mr. Wilson: I do not have any assurance. That is the basis on which we have been advised the agreement would continue.

Mr. Breaugh: But it is conceivable that the Treasurer of Ontario could negotiate with Ontario Hydro and say: "Wait a minute. There is no public money going into the Niagara Parks Commission; but in fact, through one of our other agencies,

Ontario Hydro, there is a couple million dollars a year going into that. We would like to change that arrangement somewhat." How would you protect yourself in that instance?

Mr. Wilson: I have a letter here from Mr. Honey which says, "As part of the process of drafting new water power agreements, we will develop and send to you a draft formula to provide for the continuation of payments by Ontario Hydro to the commission, and a meeting to discuss the formula will follow." So we feel reasonably assured that this is the way it will continue.

Mr. Breaugh: Let me try to nail this down a bit. You are not active participants in that set of negotiations, are you?

Mr. Wilson: Those are for the master agreement, which does not affect us.

Mr. Breaugh: Well, for \$2.6 million, I would pay some attention to it.

Mr. Allan: It could affect us.

Mr. Breaugh: How much is this of your actual income? What is a ball-park percentage, 25 per cent?

Mr. Allan: No, \$3.1 million of \$26 million. Of course, it is a different kind of money; the \$26 million is gross income.

Mr. Breaugh: Right. Quite frankly, one thing that helps you immensely, I am sure, is this long-standing agreement which generates in excess of \$2 million a year for you. It is a substantial chunk of your income. It is money you do not have to go and hustle for. The water keeps flowing through there, and it is not like you have to set up a new McDonald's or something to compete in that way.

Mr. Allan: There has always been the feeling that the Hydro income would assist in paying for the upkeep of the parks and would enable them to be kept free to the public.

Mr. Breaugh: Right.

Mr. Allan: As long as they are free to the public, that income will probably be necessary.

Mr. Breaugh: What I am trying to get at, though, is that this is a substantial piece of change we are talking about here, and the ramifications of altering that agreement are very substantial.

For example, if we had a Social Credit government elected here, I am sure it would take a look at this and say, "We are subsidizing this parks commission to the tune of \$2.6 million a year, and we do not want to do that any more."

Or if we ever had a Tory government re-elected here, which might happen, it might say: "We are not getting much political advantage out of having Ontario Hydro pay these folks. Let us pay

them directly; and in the process, let us nip \$600,000 out of them. We will go down and present them with a cheque for \$2 million; they will be all happy and grateful and we will save \$600,000." But from your point of view this would still be a substantial decline in income. We seem to be operating here on a lot of good trust.

Mr. Allan: We have not had an indication that they are going to do away with that income.

Mr. Breaugh: But as far as I can determine, there is no obligation on the part of the government to involve you in these negotiations or to tell you ahead of time.

Mr. Allan: We cannot tell the government what it can do.

Mr. Breaugh: No one seems to have that ability. But that is an area where you are a little on the vulnerable side; it is technically possible that a change in government policy could make for a dramatic change in income to the parks commission.

Mr. Allan: We will hope that good judgement will prevail.

Mr. Breaugh: That is liable to break out any moment around here.

That is one area that would be of some concern to me. Let me move to another area. I have heard the rationale for having your own police force, but it is kind of unique in a municipality to have something like the parks police. Where we get into some trouble with separate police forces is that they sometimes mean separate laws. They certainly do mean separate law enforcement of a different kind.

Could you elaborate a bit for us on the advantages, which I am sure you will give me, and the disadvantages of operating a separate police force?

Mr. Allan: I think the main advantage is that our police force emphasizes public relations. That is probably the first consideration. We have some experts in getting your keys out of your car when you lock them in. The commission tried to impress the police force, and I think we have been successful in that way, that they must always have in mind establishing an image of good public relations, to be helpful to people rather than to be looking for criminals.

Mr. Katzman: In all fairness, with that acreage of property and all the little nooks and crannies all along the parkway, there is never any incidence of wild parties or things of that nature because it is policed so well, whereas I do not think in the Niagara region they would be able to police it in that manner, notwithstanding the fact that our officers seem to be very tourist-oriented to Mr. and Mrs. Smith from Ohio. I think that might help you.

They go all the way down into Niagara and check everything every night from golf courses to public buildings and restaurants,

and they do so on a continual basis. Also, there is the fact that our police force picks up our money and drive into a private area in the police station with that money. An automatic door closes behind them and it is all sealed. No one can get at them. There are cameras all over the place, whereas a region might have problems trying to administer picking up this cash and taking cash to various locations.

Mr. Breaugh: There are some obvious advantages with respect to the commission having its own police force. If you turn this over to Niagara Regional Police, for example, they would probably immediately apply some kind of standard of policing, which works out in the end to be how many times a police officer visits a certain site, how frequently certain areas are patrolled, how many officers are on duty at any given time, and all of that. It is quite a different standard really to what you would be interested in setting.

I am a little leary of private police forces, however. I am very interested in the technicalities of why you have it. I would hazard a guess that you would probably have the largest private police force in Canada, would you?

Mr. Allan: I would not know.

Mr. Breaugh: How many officers do you have?

Mr. Wilson: We have 18 full-time officers and 24 seasonals.

Mr. Breaugh: How are they trained?

Mr. Katzman: Through a police college.

Mr. Wilson: The regular officers are trained at the Ontario Police College.

Mr. Breaugh: So you have a training system which is pretty well integrated with other forces.

Mr. Wilson: Yes. They work very closely with the regional police and with the Ontario Provincial Police. There is a very good co-operative program there.

In a sense, they are park wardens more than they are police. They are involved in different kinds of things. Sometimes they are involved in the rescue of people from the gorge and the retrieval of bodies from the river, which happens fairly frequently.

It is not just an ordinary kind of police force. The security of bringing in the money to the cash office from all the outlying places is a service we need and which we need at a certain time when the stores are closing.

For instance, on the Sunday of the civic holiday weekend, which was a record day, we took in more than \$250,000. That money has to be put away safely late at night. Our stores are open from nine in the morning until 11 at night, and that is a long day.

They need change and they need service. This is another aspect of what the police do for us.

Mr. Breaugh: Could somebody tell me in a technical, legal sense, how you got to have your own police force?

Mr. Wilson: They were there almost from the very start of the park at the turn of the century, particularly in Queen Victoria Park. One of the first payrolls there shows a small police force. It was traditional in that type of park that there would be a police force.

There was a time, however, when the OPP patrolled the parkway itself. Then in the 1950s the commission took over that as well.

11:20 a.m.

Mr. Breaugh: How do you resolve the jurisdictional problems? Your park police have jurisdiction there. The Niagara Regional Police has some jurisdiction. The Ontario Provincial Police has some jurisdiction, and so does the Royal Canadian Mounted Police. There are four police forces operating along that border strip.

Mr. Wilson: In fact, it is mostly our police on the 35 miles of parkway. They deal with the Highway Traffic Act, the Niagara Parks Act and the Liquor Control Act. If they get into a difficulty with the Criminal Code or something of that nature, they would call in assistance from the regional police, and this is a usual thing.

Mr. Breaugh: How about the aspect of it that you are patrolling the border? Though most of it would be virtually inaccessible, parts of it are not; parts of it are quite accessible. Do you have any difficulty with that?

Mr. Wilson: Not really.

Mr. Breaugh: Is that because most of what you are patrolling there is pretty inaccessible territory?

Mr. Wilson: Part of it is very inaccessible, but the upper river and parts of the lower river are not all that inaccessible. On the other hand, I guess that is a Customs and Immigration problem for the most part. Our people work with all those various agencies, but I must say that as far as the border problems in particular are concerned, they do not seem to be major in any way.

Mr. Breaugh: Is that essentially because your force has decided that is not really why you are there?

Mr. Wilson: No. There is very close co-operation with all the various agencies in that area. They work with the RCMP as well, and they are involved in the type of thing you are mentioning. There is a close working relationship.

Mr. Breaugh: So you try to integrate. Is that integration in a formal sense or just casual relationships?

Mr. Wilson: They do have meetings together. I do not know whether it is on a regular basis, but they certainly meet together. There is the informal association as well. I find that the police forces in the area have a very close relationship.

Mr. Breaugh: One of my concerns obviously would be that it is one of perhaps three or four places in this province where the borders are very close and there are places where crossings can be made very easily. Rumour has had it for a long time that it is one of the places where if you want to bring something into the country illegally, you can do it with relative ease. I am wondering how we are taking any police action to co-ordinate our effort to stop that. It seems to be a little on the loose side.

Mr. Katzman: Could I answer that, Mr. Chairman? I go over the border frequently--two or three times a week--to restaurants or whatever, because we are a border city. I am talking about the Queenston-Lewiston Bridge and the Rainbow Bridge. I have never seen two bridges as tightly knit and secured as those bridges are. You are computer punched out as soon as your car approaches. There are always constables, on the American side more so than on our side. Do not let anyone fool you that they are easy bridges to come over or go across; they are not at all.

Mr. Breaugh: It is fairly obvious, if you are using the road system, for example, that there is a pretty good security system there. But one of the disadvantages of having a great unguarded border, as we have with the Americans, is that there is relatively easy access and you have a lot of territory there that you are patrolling where that access could occur.

Mr. Katzman: I was in Niagara-on-the-Lake two weeks ago, on a friend's boat. We were just five miles outside of Niagara-on-the-Lake, and in that five-mile span there were all kinds of US Coast Guard ships patrolling. Mind you, this was in the height of the tourist season.

The Niagara Regional Police goes into the town of Niagara-on-the-Lake and polices that. We pick it up from Niagara-on-the-Lake and go south with it right up to Fort Erie along the river road.

Mr. Breaugh: But basically your police force is in place and in business to service the park area itself. That is your prime concern and that is what you look after.

Mr. Katzman: Right.

Mr. Breaugh: I can identify who is policing the bridges. I am just looking for a little slippage in there about who is policing certain other areas that are not quite as visible and where, if one wanted to bring things or people into the country illegally, it would be technically possible to do that.

Mr. Katzman: I think the key to that was Mr. Wilson's

answer when he said that the co-operation with the Niagara Regional Police and the Niagara Parks Police has been outstanding and their ability to work with the OPP and the RCMP in the Niagara region has really been good. It is a really good relationship.

Mr. Breaugh: I get a little worried sometimes when we are dealing with co-operation and relationship and we cannot see the hard and fast way in which it operates. It might be interesting for us to explore that a bit.

One other area I would like to spend a little time on is the Niagara Parks Commission School of Horticulture, which seems to me to be something that is truly unique in Canada and which, to my knowledge, has a really impressive reputation as a facility. However, when you get there and see it, it is really quite a small operation. It is almost an élitist kind of thing.

I suppose we should be grateful that we are élitist about some things in this country. It seems we have a school there that has managed to garner an international reputation.

Is there any thought of trying to expand it in size? When we were there yesterday, people seemed quite proud that it was small in size and had a program that, frankly, seemed to me to be recognized more elsewhere than here in Canada.

Mr. Allan: We have no plans to expand it. What is our cost for that school?

Mr. Wilson: It is \$461,000.

Mr. Allan: That is fairly high for each student, but the facilities are not there to suggest an expansion. It is true that we have more applications than we are able to accept, but as to the type of operation it is now, whereby the student is able to attend and graduate without any loans or expenses, the commission would have to give a lot of thought to expansion before it would undertake it.

Mr. Breaugh: Perhaps you could fill us in a little. What about the number of applications? How many applications to attend do you get from students?

Mr. Wilson: We get about 60 who are somewhat qualified. We ask that they not only have grade 12, but some practical experience as well. Each of the best qualified, at least 24 or 30, is individually interviewed by one or two people at the school. The process to pick the best is pretty thorough.

Mr. Breaugh: Right now you could probably double the number of students in that school without much difficulty, except for handling them. I would anticipate that in the parks commission properties there is certainly great potential for those students to--

Mr. Katzman: I think accommodation would be a major factor. Mr. Dalby mentioned the accommodation factor when he showed the slides of the students' residence yesterday. That would

come back to what Mr. Allan is saying. I agree with you. The parks can be proud of many things, but one thing this province can be proud of is that school. That is a great facility, turning out great students.

Mr. Breaugh: I just keep thinking that it is almost a typical Canadian mindset. We are fiercely proud of something like that school. But if that were in the United States, they would probably quadruple the size of the joint, put 400 young people in there, churn them out and advertise like mad around the world. We are so proud that we have 35 young people there.

Mr. Katzman: Then you would have to build an accommodation facility. You said at the outset that it looked so small, but there are 70 acres there. It is all the students can do, as part of their curriculum, to maintain that 70 acres of property. Perhaps in future years that might happen. As Mr. Allan says, right now it does not look as though it is on the horizon.

Mr. Allan: We did increase the enrolment about 10 years ago. It used to be only 24 students; eight each year.

11:30 a.m.

Mr. Breaugh: Yesterday, in some of the things we saw, there seemed to be the beginnings of expanding the commercial aspect of the school, in developing new technology for plants and developing the centennial bulb. I bought a couple of packages and took them home. There seems to be the potential to develop that side of it, either within the parks commission or in the private sector. Is there much active consideration going on to actually doing that?

Mr. Allan: No, I do not think we would want to. We would be duplicating work.

Mr. Breaugh: Again, to use the American comparison, they would take something like that, and you would be buying Niagara Parks Commission School of Horticulture roses from coast to coast. I am sure that could happen here. It does seem that, as a commission which needs to generate revenues, there is great potential there. Are we using that at all?

Mr. Wilson: I think all along the parkway there is great potential for doing a lot of commercial things. There is a problem in trying to get a balance as to how far you would go.

It is only for the last two years that we have had a garden shop at that school, and it has been quite successful. With the numbers of people that you get there, you could have a restaurant, tea-house, or whatever, and I am sure it would do very well. We have to try to get this balance of keeping it a park for the sake of being a park and not being overly commercial.

Regarding the type of tissue culture that Mrs. Whitehouse was working on, that is really a procedure being taught to the students. It is a matter of keeping up to date with what is going on in the horticultural world, to try to keep our students up to

date. She brought that process with her from university, has broadened it at the school, and is teaching it to the kids.

Mr. Breaugh: The potential is certainly there to take that idea--the example of tissue culture roses or whatever--and sell the concept to the private sector, market it, make a pile of money, and never change the face of the school at all. You are selling concepts there.

Mr. Wilson: We are not really a research institution, not at all, not like the Horticultural Research Institute of Ontario at Vineland. These are not new processes. These are things that have been developed somewhere else, which we are bringing back to the school to keep them up to date. Our chance of selling that would not be very great.

The other thing is that we have always tried to stay away from being in the florist business as such, so as not to compete with local florists. There are florists in that business, and we have tried not to do that kind of thing. We are trying to deal strictly with the tourists who are visiting.

Mr. Breaugh: But you could take your centennial tulip, as an example, and I am sure you will to a certain degree. That kind of concept could be marketed, and could be a very profitable piece of business. I am sure there are people from one end of this country to the other who have visited Niagara Falls at one time or another in their lives. They would be happy to go to their local florist, to buy those tulip bulbs and plant them, and just remember nice things about Niagara Falls. There is that kind of potential there.

Let me ask you about one little concern I have. One of the great things about the parks commission and the parks has been the ability of people to go there. You could, I dare say, spend a whole day there and never spend money if you really wanted to. There are lots of people working very hard to see that you do, but there has been that aspect of it, and, traditionally, since its inception, that has been one of the mandates of the parks commission.

As you expand into transportation systems and things of that nature, that may decline somewhat. It may not be possible--not as easy, let me put it that way--to go and walk around the parks for a day because you have to use the transportation system to get into the parks or something like that. Do you have some concerns that balancing the books and providing access to the people into the parks system is not as easy as it once was?

Mr. Wilson: That is what we propose to do. When we finally decide on the rates for parking and the rates for transportation, we want to keep those as low as we possibly can. We mentioned parking at \$1 a car, and one of the tourist operators said: "Why do you not just charge \$2? You could double your money." We want to keep the enjoyment of the park within the reach of people with families, and to keep it as reasonable as we possibly can.

You might explain the two days we tried a little sampling of what would happen. We charged for parking and brought the people down with the double-decked buses. Were there any complaints?

Mr. Katzman: No. This was a two-day trial at the proposed parking lot done on Saturday, August 11 and Sunday, August 12. Mr. Harris was there and he can give you a traffic count based on 750 spots. This was done by signs, not permanent but temporary signs telling the people where they could park. Then we had double-decked buses to bring them down into the falls area. I think Mr. Harris has a pretty good handle on what happened and Mr. Wilson, our general manager, may want to mention some of the comments of the tourists.

Mr. Harris: In anticipation of the acceptability of that parking lot by the travelling public, we wanted to test it this summer so that we would have a good handle on what the attitude would be to using it, because it is somewhat remote from the park itself. On August 11 and August 12 we discontinued parking on the grass in Queen Victoria Park--at present, some 510 cars are parked on the grass. We discontinued the use of our viewmobiles, which are the small vehicles that transport people the length of Queen Victoria Park, and we channelled the tourists to the parking lot to the south.

The Saturday was a very cloudy and very dark day. It rained all day Sunday. It happened that it was not the best test we could have arranged. None the less, between Saturday and Sunday we had 3,300 cars use that 750-vehicle parking lot. We transported 10,000 people from that parking lot down into Queen Victoria Park. It was very encouraging, to say the least.

There were comments made. We had a small handout for the people as they were leaving asking how they liked this arrangement. Mr. Wilson may have some of them, but generally speaking the comments were extremely favourable. They said, "Why did you not do it years ago?" things of that nature. With 30,000 cars a day in Queen Victoria Park, that park is congested. People get so tired and fed up of sitting in the car and not being able to find parking spots, they are awfully relieved by the time they get to the south end and find this area is available to them.

On that day the parking at that lot was free and there was a charge of \$1 per adult and 50 cents per child on the double-decked buses. That was constituted as an all-day pass and the people were given little stickers to get on and off the transportation as often as they liked. It worked very well, so much so that we are moving to expand that somewhat to another 230 spaces. In the spring of 1985 we will have what we hope are sufficient spaces to handle the needs of the people. If they are not sufficient we will continue to expand the modules to ensure they are sufficient. We would certainly be moving people off the grass and removing some cars from parking alongside Queen Victoria Park.

There are some people who have the notion that the

commission intends to remove vehicular traffic from Queen Victoria Park. Such is not the case at all. We try as best we can to dispel that notion because it would upset and change the entire traffic pattern within the city of Niagara Falls. That is not the case, but it was a very successful trial.

Mr. Rotenberg: I might just pursue a point Mr. Breaugh made. If you start to charge for parking and people moving and so on, let us say a family comes to Niagara Falls from Toronto or Hamilton by Gray Coach, gets off at the bus terminal and wants to walk along the park. Those people still can spend all day and not spend a dime if they want to. There is still free access to the park; the only charge you are making is for the vehicle. The people themselves will still be able to come free. There will not be a change in that?

Mr. Harris: No, there is no change in that.

11:40 a.m.

Mr. Epp: I just want to get into this area of your Niagara Parks Commission School of Horticulture. What kind of liaison do you have with other schools in the province, whether they be community colleges or private schools?

For instance, we have the K-W School of Horticulture Ltd. which is run by a fellow by the name of Tom Patience, and I think there is one at Humber College. What kind of liaison or what kind of communication do you have with those?

Mr. Wilson: I guess it is in two ways. One is that our graduates are all over the place, they are across Canada, and they are active in most of the type of things that you mention.

The other, as far as the Niagara College is concerned, some of our people are on the advisory committees for the horticultural course at Niagara College, so we have that kind of thing.

We send out a brochure to all of the high schools in Ontario, to the guidance people, explaining what the course has to offer, and we get quite a response from those as well.

The alumni association is a very close knit association that has for years and years come back annually to Niagara Falls for an educational conference in the winter, so they are very active and tied to the school. They do a lot in promoting horticulture in general and the school in particular throughout the country.

Mr. Epp: Do you have a board at the horticultural school, a special committee or a board or something like that? You have a director there.

Mr. Wilson: Yes.

Mr. Epp: But do you have any committee made up of people in the landscaping field, or something, who particularly advise him or her?

Mr. Wilson: Yes, there is a board, mostly made up of graduates of the school who are not working for us but are working for other organizations, who advise on the curriculum and this type of thing.

Mr. Epp: They meet on a regular basis?

Mr. Wilson: They meet once a year.

Mr. Katzman: One thing that was brought out yesterday by our superintendent of horticulture, Mr. Dalby, is that in answer to your liaison question, Ryerson and the University of Toronto will make frequent visits for exchange of information and different data and things like that, and that is readily available.

Mr. Epp: So that is pretty well the extent of the liaison that you have with other community colleges or independent schools and private enterprises, from the standpoint of people who are advising you on what to do, the committee that meets once a year?

Mr. Wilson: I think that is pretty well it. The only other thing I can say is that the students take a lot of field trips, including one to England recently for third-year students, for which they paid their own way.

There is a constant contact between our staff accompanying these students and people in other organizations, in both school and industry. There may not be a large formal organization, but there is constant contact with other similar-type organizations.

Mr. Allan: Mr. Chairman, Mr. Epp might not understand that their activities at the school are divided approximately half in classroom and half in practical work, which is--

Mr. Epp: So it is almost like a co-operative program like the University of Waterloo.

Mr. Katzman: Indoors and outdoors, 40 hours a week.

Mr. Edighoffer: Just by way of a supplementary, I understood yesterday, and I hope I was correct in this, the diplomas given to these students are not recognized by any Ontario school, but they are by some schools in the United States.

Mr. Wilson: It is not quite that way. It is a diploma; of course, it is not a university diploma, it is an apprenticeship diploma. It was recognized, first of all, by a number of American universities, but it has since been recognized, as far as giving credits are concerned, by both Brock University and Guelph, so there is recognition given to it, and credit given when someone goes on. We always have one or two graduates go on to university after they finish at the school and they get credit.

Mr. Epp: By an extension, if some of the universities are giving credits for them, obviously some of the community colleges are giving credits.

Mr. Wilson: Yes, but we would never likely have anybody go to a community college from our school because they are really at that level; it is in the same level.

Mr. Epp: Not unless they were going into a different field, right?

Mr. Wilson: Right.

Mr. Watson: One of the things we saw yesterday, which seemed to be somewhat controversial--not controversial, but you did not know how you were going to handle it--was the Toronto Hydro building. You smile again this morning.

Mr. Epp: Is it still in the news?

Mr. Watson: It is still in the news, I guess, down there, and it appears to be quite an impressive structure, which is not being used. For the benefit of the committee do you want to give us a status report on that and perhaps some ideas on what may happen?

Mr. Allan: Hydro people have been talking to us about it recently. It is a very lovely old building of a type of architecture such that, if there were a proposal to tear the building down, we feel we would be in a great deal of warm water, so we hope something can be worked out. A group a few years ago thought it could manage something and could raise funds from the public to do certain things there, but that did not turn out to be a success. What you can do with the building is so limited because of the parking facilities there; there is no parking.

Mr. Watson: But with your new system that may not be a difficulty any more.

Mr. Allan: It may not be.

Mr. Watson: You were mentioning the tremendous height of that thing inside.

Mr. Katzman: Jim can tell you it is full of generators down below. What is the height of it, Jim?

Mr. Harris: It goes down about 160 feet, and I assure you that if one had gone inside the building, one would have been extremely disappointed with the condition of the inside of the building. The water was flowing through the foundation walls; a pump was going continuously trying to keep the penstocks dry and the (inaudible) dry.

It was in a very bad state of repair, so central planning did have a proposal to turn it into an (inaudible), but these conversations are going on all the time.

Mr. Allan: It was hoped the Ontario government could be generous when it was giving consideration to it, but that did not happen.

Mr. Breaugh: A lot of people are disappointed. Is there any truth to the rumour it is going to be made into a gambling casino? It has been an hour since I started the rumour.

Mr. Watson: I take it, then, that a lot of people are frustrated over what should happen to it but there is general agreement that something should be preserved about it.

Mr. Allan: That is just the situation. If you have a good proposal, pass it along and we will pass it along.

Mr. Watson: I suppose all we can do here is to suggest that the parks commission look at accepting proposals. Would you be open to proposals from public or private enterprise to do something with it? You have other concessions. The suggestion of a gambling casino I doubt would go; but, on the other hand, something else in the form of a concession might go.

Mr. Katzman: But we do not own the building.

Mr. Allan: It is not our building. I know Hydro would be very happy to give it to us, but we would not be that happy to accept it.

Mr. Breaugh: What is physical status of the building?

Mr. Allan: It is owned by Hydro.

Mr. Breaugh: But physically is the building capable of being preserved structurally?

Mr. Wilson: They are having engineers look at it now. There are some real problems with it. It is an old building that has not been used for some time. The roof has leaked, the walls downstairs in the pits are starting to fall in and water is coming in there. So there are real structural problems with it, and the one thing Hydro is doing at the present time is having the engineers look at it to see what is possible. The cost of maintaining it is fairly high.

One of the problems with that building is that it was designed by E. J. Lennox, who is a famous architect. He did the city hall in Toronto and Casa Loma as well, so he was a well-known architect and that makes it more difficult to tear down, I think.

Mr. Breaugh: Is it structurally sound? Do we know?

Mr. Wilson: It could be made that way, probably.

Mr. Breaugh: It would be incredibly expensive, I would guess, to update that building.

Mr. Wilson: It is a real job. It is a very difficult building.

Mr. Breaugh: If it is incredibly expensive, then it is in the hands of Ontario Hydro. You can rest assured they will keep it going. It meets their criteria.

Mr. Chairman: Mr. Watson, are you finished with your questions?

Mr. Watson: No. One of the very general questions in terms of what this committee tries to do with various commissions and people who appear before us is to examine the legislation under which they operate and ask, is it adequate? Do you have too much power? Would you like more power?

I guess my question is of a general nature. Is the legislative authority under which you operate by various acts adequate? Is there anything the commission wants or has asked to be changed that has not been changed?

Mr. Allan: I think I would expressing the feelings of the commission if I said we were well satisfied with the legislation as it is. We do not have all the power in the world and we do not think we should.

Mr. Watson: I note, for instance, your borrowings and things like that have to be improved.

Mr. Allan: I think it is good as it is.

Mr. Watson: You are satisfied with the balance that is now there?

Mr. Allan: Yes.

Mr. Watson: Is it offensive that you may want to pass some little bylaw that requires an order in council and it is turned down?

Mr. Allan: We have had two ministries and they have been reasonable. We have not always agreed, but we have always come to a conclusion.

Mr. McLean: Which ministries?

Mr. Katzman: Natural Resources was first, and the tourism ministry was second.

Mr. McLean: And you say they have always been co-operative.

Mr. Allan: Yes.

Mr. Epp: I suppose, to put it another way, Mr. Allan, if you were still Treasurer and on the other side, would you change the act to accommodate the parks commission and the requests they have put forward?

Mr. Allan: I think I would tell them it was pretty good as it was.

Mr. Epp: Boy, you have not lost your touch, have you?

Mr. Chairman: Any other questions? That ends the list of people who have indicated to me they wanted to ask questions. I think that completes it. Thank you very much, gentlemen, for appearing here this morning, assisting us and answering our questions. That will be it. You will not be coming back this afternoon. It will not be necessary.

Mr. Allan: We are very glad to have appeared. I think it is a good idea. It is nice to be checked.

Mr. Breaugh: Let us just put on the record, for those of us who almost drowned in a GO Transit bus getting there, that despite the lousy weather, we had a wonderful day and we were treated well. I am suggesting to you that you should put some kind of drying-out facility there. The record should show that is not for alcoholic consumption either. It was very wet on the day of our visit.

Mr. Allan: I will tell the commission that this is your recommendation.

Mr. Watson: A concession to sell dry socks at the top of the Maid of the Mist would suit Mr. Cureatz very well.

Mr. Chairman: Thank you very much, gentlemen, for assisting us this morning. You can leave any time.

Before we leave, can we discuss two things? First, the group from British Columbia--the procedural affairs committee or our equivalent--is scheduled to visit Queen's Park on Monday. I believe they are in Ottawa now, but we have also heard on the news this morning that the Legislature in BC is being called back to deal with the transit strike out there.

Mr. Breaugh: We have heard that song before. At least in BC they let the strike happen for a while before they legislate them back.

Mr. Villeneuve: See how lucky you are here?

Mr. Chairman: In those circumstances, I think they are called back--when is the Legislature called back?

Interjection: Tomorrow morning.

Mr. Chairman: Tomorrow morning, which is Thursday. It is probably unlikely that these people will be back here on Monday, but in the event that something happens, what would this committee like to do vis-à-vis the possibility of their being here on Monday? We were not scheduled to sit.

Mr. McLean: You can pretty well count on them not being back on Monday. If they are called back to sit today, they are not going to fly back again Monday to continue the trip.

Mr. Epp: If they go back. All of them may not go back.

Mr. McLean: They probably will.

Mr. Epp: If they do go back, that resolves it. If they do not go back, why do you not have some kind of dinner for them, a reception or something of that nature, and meet with them on Monday night?

Assistant Clerk: They cannot stay that long on Monday. They are here from 10 a.m. until noon. They can stay from 2 p.m. until 4 p.m. if the program is not finished in the morning. They are planning to get away in the afternoon. They were thinking more about lunch.

Mr. Cureatz: Why do you not find out tomorrow if they are going to come and then we will know?

Assistant Clerk: I am sure they will advise me if they are heading back to Victoria and are not going to be here.

Mr. Breaugh: We are meeting tomorrow, so let us leave it until tomorrow.

Mr. Cureatz: If we have to come back, some of us will make it in for Monday.

Mr. Epp: Can I raise something else? Are you going to meet tomorrow? Do you have an in camera meeting this afternoon, or are you going to meet this afternoon?

Mr. Chairman: This afternoon is the second item I was going to bring up.

Mr. Epp: Why do you not raise that?

Mr. Chairman: We will leave the first one, and the clerk will try to get a definitive answer as to whether they will be here on Monday.

The second item is this afternoon's agenda. We were scheduled to have the Niagara Parks Commission in front of us this afternoon. Tomorrow we were going to have our in camera meeting reviewing the Niagara Parks Commission, the Animal Care Review Board and the Ontario International Corp. Do you wish to start on those this afternoon? What is your wish?

Mr. Cureatz: I do not imagine Mr. Eichmanis will have anything for us on the parks commission today.

Mr. Eichmanis: I was expecting us to meet tomorrow, so I did prepare recommendations on the Ontario International Corp. They are being typed now, but I am not sure they will be ready for this afternoon. That is the only problem. I could speed it up and have it ready by two o'clock.

Mr. Breaugh: Would it be better to leave it over and do the three tomorrow?

Mr. Watson: I am prepared to meet this afternoon if we

are not going to meet tomorrow. If we are going to meet tomorrow anyway, then let us do them all tomorrow.

Mr. Cureatz: We always get bogged down.

Mr. Watson: I do not see us getting bogged down on the reviews.

Mr. Epp: Do you want to leave it until tomorrow afternoon, or do you want to do them all tomorrow morning? Or what do you want to do?

Mr. Chairman: Will it be tomorrow morning? Since we finished early, the committee will not meet this afternoon. Instead, we will meet at 10 o'clock tomorrow morning. Is that the idea?

Mr. Cureatz: Then we will find out about Monday, whether you want us, or some of us, to come back.

Mr. Epp: Before you go, can I raise one other thing? I recall from last year that when the ploughing match was on there were some members who suggested we not meet that day. I am not making any recommendation either way. I am asking whether the committee has given some thought to not meeting that day, which is September 25, 26 or 27.

Mr. McLean: I think September 25 is a Tuesday.

Mr. Epp: Is it Tuesday, September 25, that the MPPs have been invited to the ploughing match? As I say, I am not putting in a special request. I am just wondering whether some consideration has been given to it. If so, since we are supposed to meet in camera that day, has the committee considered not meeting that day and meeting the next day?

Mr. Rotenberg: We are supposed to meet three days that week?

Mr. Epp: Yes. I think it is Tuesday, Wednesday and Thursday. This is on Tuesday; so the committee could consider meeting just Wednesday and Thursday or meeting Wednesday, Thursday and Friday or meeting Tuesday, Wednesday and Thursday.

Mr. Chairman: Is it possible to leave that until we see how we go the previous Thursday?

Mr. Epp: With respect, if we are going to meet, I am not going to participate, quite honestly. There may be other members in the same position. If on the other hand we are not going to meet, we might very well participate. We would like to know ahead of time what we plan on doing. That is all I am asking.

12 noon

Mr. Watson: I cannot be here on September 25, not because I am going to the ploughing match; I would love to go. Because I cannot go, I think it is a good program for people to be

at. I suggest that because we are in camera that week, we not meet until Wednesday. That gets me off the hook for another reason, but I am not going to be here that day anyway. If some of the rest of them want to go to the ploughing match, I am sure there are only two or three who will not be going.

Mr. Breaugh: I do not know how the rest of you are, but I am on a bit of a tight schedule for the next little while. It causes me problems every time you drop one day and pick up another. My personal preference is to hold the meetings as we have scheduled them. If you cannot be here, that is too bad. But you louse everybody else's schedule up when you start moving the meeting days around.

Mr. Cureatz: Unfortunately, I agree with Mike.

Mr. Breaugh: Then I want to reconsider what I just said.

Mr. McLean: Maybe we can meet in the morning.

Mr. Breaugh: Anything such as that is fine. The only problem is that I have mapped out Tuesday, Wednesday and Thursday to be here.

Mr. Cureatz: We could meet in the morning.

Mr. Rotenberg: We could meet in the morning only.

Mr. Epp: That is fine if you want to do that. I am not opposed to that; I think it is a good idea. If you are going to meet in the morning and most people come in the day before, why do you not meet a little earlier? That gives people a little more time to get there. For instance, why not start at nine o'clock and finish at 11 o'clock, rather than starting at 10 o'clock and finishing at noon? That would give everybody a little more time to get there.

Everybody usually comes in the night before anyway. It makes it a little more convenient; you do not have to rush like mad to get there if you are planning on being there.

Mr. Chairman: Fine. Then let us establish it as nine o'clock to 11 o'clock on September 25. We will adjourn until tomorrow morning at 10 o'clock.

The committee adjourned at 12:01 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
ONTARIO JUNIOR FARMER ESTABLISHMENT LOAN CORP.

TUESDAY, SEPTEMBER 18, 1984

(SEP 88 1984)

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breughn, M. J. (Oshawa NDP)
Charlton, B. A. (Hamilton Mountain NDP)
Cureatz, S. L., (Durham East PC)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Mancini, R. (Essex South L)
McLean, A. K. (Simcoe East PC)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Witnesses:

From the Ontario Junior Farmer Establishment Corp.:
Ediger, H., Vice-Chairman
MacLeod, N., General Manager
Sewell, R., Chairman

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Tuesday, September 18, 1984

The committee met at 10:15 in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
(continued)

ONTARIO JUNIOR FARMER ESTABLISHMENT LOAN CORP.

Mr. Chairman: Gentlemen, we have with us this morning the Ontario Junior Farmer Establishment Loan Corp. and the chairman and various officials from it. Mr. Sewell, you might identify the people so the members can associate the names with the faces. Do you have a prepared opening statement?

Mr. Sewell: Mr. Chairman, I do not have a prepared statement. I was going to make a few opening comments.

Mr. Chairman: Fine, if you would, follow that procedure.

Mr. Sewell: I am Roland Sewell. I have been the chairman since December 9, 1982. On my right is Henry Ediger. Henry has been vice-chairman since December 1982. On my left is Doug Jackson, who has been our director since 1977. Also on my right is Norman MacLeod, who is the manager of the corporation. He has been there since 1981. Behind us is Nancy Bardecki, the director of our farm assistance programs branch, and Vern Spencer, the director of the capital improvements branch under which the junior farmer corporation's bookkeeping operations are done.

I did not have an opening statement to hand out. The report by your researchers is pretty well correct. While the corporation was established in 1952, there have been one or two amendments to the act since. We have not been issuing new loans since 1969 and 1970.

The report does not mention the two distinct areas of responsibilities that occurred in 1969; that is, that while the federal government or the private sector would provide the funds for lending, the ministry would provide the financial advisory services through its agricultural representatives branch. The role of the corporation is to maintain the existing loans. Last March, there were 2,860 loans. If these loans run to their regular due date, there will be only 400 which will run out within the next nine years. Most of them, about 2,500, would run out between 1993 and 1999, when the final term is due.

The board generally permits assumptions. There are some of the Provincial Auditor's comments in your researchers' report. The current board has been trying to adhere to the requirements of the Junior Farm Establishment Act when permitting assumptions of these mortgages, bearing in mind they have only a five per cent interest both current and overdue. That can be quite attractive. We are trying to limit the assumptions to people between the ages of 21

and 35, Ontario residents for three years, who intend to farm full time, etc., as indicated in the act.

Those are my comments. I and my staff would be pleased to try to answer any questions you may have.

Mr. Chairman: You said you tried to limit the assumptions to those people who used to meet the qualifications for loans. Do you always follow that or when you have something of a distress situation do you keep that in first place, when they do not meet all the qualifications?

Mr. Sewell: If we have someone in a distress situation and there is a willing buyer, we would rather help that situation go through. As you know, there are a lot of distress situations in farming these days and we would not do anything to block that, but normally, if it is a straight intent to purchase, we would require the person to assume the mortgage to be within those guidelines.

Mr. Chairman: What would be the largest principal amount now left owing on a junior farmer loan?

Mr. Sewell: Could you tell us that, Norman?

Mr. MacLeod: I would say it would be roughly \$30,000.

Mr. Sewell: The maximum was \$40,000 in 1969 when the last loans were issued.

Mr. Chairman: What is the average?

Mr. MacLeod: The average would be down less than \$20,000--\$18,000 or \$19,000.

Mr. McLean: Do you have any figures on that?

Mr. MacLeod: Those would be pretty close. They are my estimates at this point. If you need the actual figures, I can certainly get them for you.

Mr. Watson: I have a couple of things. I want to deal with the arrears. What is the extent of arrears of junior farmer loans at the present time?

Mr. Sewell: Would you read those out, Norman? He can quote them better than I.

Mr. MacLeod: As of March 31, 1984, we had 217 loans in arrears, the amount was \$496,000 and those figures, in terms of the number of loans in arrears, is 7.6 per cent of the total number of active loans at that time. The arrears amount of \$496,000 is 1.2 per cent of the total mortgage balance on all of the active loans. That is at the end of the last fiscal year.

Mr. Watson: What action are you taking on arrears? What is the course of action that you take when an account is in arrears?

Mr. MacLeod: We tend to separate them into two groups. We have some that are in arrears just from the last billing. We will follow up with a letter approximately one month after the due date. If we do not get a response, there is a second letter that goes out with a copy to our agricultural representative staff. We find that somewhere around 60 per cent of those that are in arrears after the billing date have settled or we have some arrangement with them within three months of that time, based on those two letters.

If we do not get that kind of response, then we tend to put them into the second group of those that are a little more critical or simply are not paying. There we will often send a note to our ag rep asking him to go out and find out if there are financial difficulties. In other words, find out what the financial situation is, what the reasons are for lack of payment, and what repayment suggestions he might have for us.

Usually, in those cases, we are able to make a satisfactory arrangement, particularly in those cases where the farmer is simply having financial difficulty and there is no money there to pay.

We also will find, based on that consultation, there may be some mortgagors who are able to pay and simply want to use the corporation as a bank at five per cent interest and we go after those. We are generally able to get them to pay without much difficulty once the bottom line is presented.

Mr. Watson: Your comments on the last are the kind I would like to zero in on--the people who are using the five per cent money. It seems to me that some of them make up pretty good excuses, whereas others may legitimately be finding it difficult to pay and they try to meet their obligations. Have you threatened or gone through with any sale proceedings?

Mr. MacLeod: In my term as manager, no, we have not. What I want to say here is that I do not think a high percentage of our serious arrears are due to that kind of problem.

When we start to look into the situations, we generally find that there are valid reasons for the lack of payment. But in those cases where we have had difficulties, through other means, suggesting that other action will be taken, generally has brought us positive results. But no, we have not gone as far as sales proceeding, not in the last three years anyway. I do not believe in the period before that either.

Mr. Sewell: That is right. If I could comment on that, Mr. Chairman, we were before public accounts two years ago and a similar question was raised. At that time, if you will recall, some of the banks had a rather bad image because they were acting pretty heavily with farmers and the ministry was trying to encourage them not to take such hasty action. We felt we should not be taking similar action ourselves, but should try to calm it down.

At that time, we had just brought into being the Ontario

farm adjustment assistance program, which requires the farmer and the agriculture rep and the bank to discuss the individual's finances. Further to what Norman MacLeod was telling you, we are meeting this month with David George, the executive director of the ag rep branch, and probably Norris Hoag, to see if we can refine some of our collection procedures with a view to assisting farmers who are having a problem, to make sure the ag rep is aware of those situations or those that come to him under the OFAAP program, or see what other avenues are available.

If it was just to avoid paying a five-per cent debt, it is amazing that we have got such a few in arrears. Where there are about 2,800 loans outstanding, most of them pay up without any problem. I do not think that would be a big problem.

Mr. Watson: You have opened a subject I want to explore. What is the tie-in administratively between the Ontario farm adjustment assistance program and the junior farmer loan? I have some appreciation that the guy they are talking to in the county is the same one, but is there any official tie-in? Do you require that a person borrow money under OFAAP to keep up his junior farmer payments, or do you say, "We will let the junior farmer payments ride, but we will subtract the amount that you can borrow through the OFAAP program?" What is the connection between the two of them?

Mr. Sewell: I think that would probably be a matter for each individual case. Probably Nancy Bardecki can tell us better because that is in her area. I would expect though that the ag rep, in discussing the individual farmer's financial situation, would talk about debts and would decide, when getting OFAAP assistance, if the debt should be paid off or it should be deferred, or what.

Mr. Watson: But if there is a deferral on the junior farmer mortgage, then that would come before you. There would be a recommendation from somebody saying, "I recommend that this be the program which we undertake to try and help this person out." Provided it is reasonable and sensible--

Mr. Sewell: We would accept that.

Mr. Watson: You are likely going to agree.

Mr. Sewell: That is why we want this meeting later on.

Mr. Watson: I am wondering, with respect to the farmers who are in arrears, is it easier to get money under OFAAP or is it easier to get you people to extend the mortgage?

Mr. Ediger: I do not think it should be our policy, and it is not our policy, to extend a mortgage at five per cent interest so he can get OAFAP, so we extend it for quite a period of time. Simply because it is five per cent interest, I think if he is a viable farmer, he should continue paying it. So, we do not have a definitive policy in that regard.

Mr. Watson: So, you look at each one.

Mr. Ediger: Yes. There is another thing I might add. You were asking about sales proceedings. Certainly in our review of our collections, sales proceedings would be one of the final tools that we would use, I hope not very often, but unless you have that kind of threat at the end, it is difficult to collect.

Mr. Watson: What about write-offs? Have you written anything off in recent years?

10:30 a.m.

Mr. Sewell: No. We have not written them off because in the majority of cases, the maximum loan limit was \$40,000 in 1969 and 1970, and with inflation, that has become a very small portion of the total assets. So, we have not felt the need to either set up a reserve, or to write off, as the Provincial Auditor suggested some two or three years ago. We feel in 99 per cent of the cases our assets would be still intact.

Mr. Watson: Unless there has been a mortgage that has run into difficulty, there should not be. You say the largest one should be down to \$30,000 now,. That was originally a \$40,000 purchase, which could have been 100 acres back in those days. You have now got the \$30,000 first mortgage on that property so, in theory, you should not have any losses.

Mr. Sewell: I might add to your comments, Mr. Watson, that when a farmer is applying for the Ontario farm adjustment assistance program, it is quite likely that the debt to the corporation is going to be one of his smaller debts. He probably owes more to the Farm Credit Corp. or to other business, so I think there would probably be more concern over those debts affecting his financial situation, than ours.

Mr. Watson: What is your relationship in regard to security to the Farm Credit Corp. at the present time?

Mr. Sewell: We are first.

Mr. Watson: You have the first mortgage?

Mr. Sewell: Yes.

Mr. Watson: Farm Credit will take a second to a junior farmer mortgage?

Mr. Sewell: Yes.

Mr. Watson: When did that come in?

Mr. Ediger: Quite some time ago now.

Interjection: Was it 1974?

Mr. Watson: It came in after we were out of business. I knew it was in but it came in really after you went out of business.

Mr. Ediger: Shortly after we went out of business.

Mr. Watson: After you went out of business, and they will still take a second mortgage to a junior farmer first mortgage?

Mr. Ediger: They were paying off a lot of our loans originally and then they decided they would take a second and very few of our loans have been paid off by them since.

Mr. Watson: You mentioned that you tried to go by the original outline which said that people should be under 35. Have you turned down any transfers because of age?

Mr. Sewell: Yes, I believe so, in the last year.

Mr. Watson: Has that effectively blocked a sale or is it paid off? Is there a general outcome, or is each one different?

Mr. MacLeod: The general outcome to them is that if the sale proceeds, our mortgage is discharged. I am not aware of any decision of the board to block on the basis of age, at least that assumption has never resulted in the sale being blocked. During the last few months it may have, but I'm not aware of it.

Mr. Watson: But you do turn them down for age?

Mr. MacLeod: There have been some.

Mr. Watson: I was under the impression that age was not much of a factor in terms of somebody who wanted to assume a mortgage.

Mr. Sewell: Up until 1982 it was not, but the Provincial Auditor criticized us and said that we were not giving out loans, but we took assumptions and we were doing that regardless of age. Since January 1983 we have been trying to adhere to the rules of the Junior Farmer Establishment Act. I think the majority of the assumptions are young people and it is often a father-to-son type deal, many of them are that way. Usually, if there are any special circumstances, the lawyer trying to get the sale through will contact us and give us further information.

Mr. Watson: Do you make that decision or recommendation or does that come through the county staff office in terms of whether or not it should be an assumption in the transfer?

Mr. Sewell: The recommendation usually is from the county office, but we make the final decision.

Mr. Chairman: May I ask what might be something of a cruel question: Is it fair to say that since 1969 you have become more of a bookkeeping corporation or service, if you will? Has there been any thought of rolling you or amalgamating you with some other organization within the government to carry out your mandate, to finish it off, or are there too many problems with that? Is it much easier to simply let you wind yourself down?

Mr. Sewell: There have been other thoughts such as whether we could sell off that portfolio to the federal Farm Credit Corp. or the Ontario Mortgage Corp. There are only two people working full time on this. Norman is on this about 25 per cent of his time, maybe less. There is not a separate bookkeeping operation. Many of the other services, such as the mailing and legal services and the computer services, are provided by the ministry in general.

Since these debts are all in the name of the corporation, it was decided it might be simpler to let them ride down. The bulk of that riding down would be done between 1993 and 1999.

Mr. Ediger: The main decision is that we should be sensitive to farmers' needs and since we do have easy access to the agricultural representatives and the field services, it is probably better if it remains within the ministry. We can probably be more sensitive to the farmers' needs than an outside agency.

Mr. McLean: How many loans will be left after 1989 for the 30-year period beginning in 1969? How many will you have for the last 10 years?

Mr. Ediger: Did you say 1989 or 1999?

Mr. McLean: How many loans will you have left on the books after 1989?

Mr. Ediger: The majority of them will still be on the books.

Mr. MacLeod: A lot of them would be 20-year loans, which would be from 1969 to 1989.

Mr. Sewell: After 1990 there will be another 230.

Mr. McLean: Still out?

Mr. Sewell: No, paid off between now and 1990.

Mr. Ediger: They were 29-year loans, 30-year loans.

Mr. McLean: They all were?

Mr. Sewell: After 1990 there will be about 2,600.

Mr. Ediger: The majority of them were 30-year loans.

Mr. MacLeod: They took me then; now the term is only 20 years.

Mr. Watson: Is that right? You did not have a good agricultural representative, that is all.

Mr. Ediger: Did you apply for 20?

Mr. Sewell: The earlier ones were.

Mr. Ediger: The earlier ones were 20 years.

Mr. Villeneuve: Are you only paying four per cent?

Mr. MacLeod: Five, I paid five per cent.

Mr. Watson: How many four per centers do you have left?

Mr. MacLeod: There is only one.

Mr. Watson: One four per center left?

Mr. MacLeod: I did manage to get that paid off but I had to borrow money from the bank to do it.

Mr. McLean: I have one more question. When the farmer makes his last payment, who discharges the mortgage from the registry office?

Mr. MacLeod: We prepare all the documentation through our legal services. I am not sure offhand who is responsible for discharging it.

Mr. McLean: What did the farmer pay to start with? When he got his loan, he paid the legal fees.

Mr. MacLeod: Well, yes.

Mr. McLean: Who pays the legal fees when he discharges the mortgage?

Mr. MacLeod: The legal fees on the discharge are mostly absorbed by the ministry. I think the fee is \$5 for a discharge. It is a token amount that certainly does not cover our legal fees now. For some of the other transactions, such as a partial discharge or an assumption, we have rates that are applied based on what would be charged out in the trade.

Mr. Chairman: In response to the first part of that question, who is responsible for the discharge, I think your corporation sends it to the farmer who has made his last payment. If there is a solicitor involved with a payout you send the discharge and I believe the duplicate original to him and it is his responsibility to get it over to the registry office.

Mr. McLean: It is the farmer then who pays for the discharge at the registry office, the registration fee.

Mr. Chairman: He can choose not to if he wishes. He can just put it in the dresser drawer, the way the odd one does, and then he escapes all costs.

Mr. Watson: What you are smiling at is that means big business for you later.

Mr. McLean: That answers my questions.

10:40 a.m.

Mr. Breaugh: I have a couple of obvious questions. What would happen if the logical thing occurred and the government did away with the Ontario Junior Farmer Establishment Loan Corp. and decided to absorb the legal responsibilities or entity into, say, the Ministry of Agriculture and Food or the Ontario Mortgage Corp. or whatever? In your opinion what would happen after that?

Mr. Sewell: In order to accomplish that I would expect you would need new legislation to show that the property with the title from the corporation on it would go somewhere else or that there would be an individual agreement to assign each mortgage to some other body.

Mr. Breaugh: Okay, but on the face of it one would take it that an agency such as this, which really has not been active in some time, should not be in business, so to speak, any more. The logical thing would be to seek some legal technique, whether an act of the Legislature or not, to terminate its existence as an entity and to simply absorb it. For example, if a trust company took over another trust company it would have no difficulty legally accepting all the assets and liabilities of the previous trust company. It is common business practice.

What I am trying to get at is why the government of Ontario would not do that. There must be an argument at least.

Mr. Sewell: I think Henry Ediger mentioned that. We feel the farmers of Ontario are better served if they can deal through the agricultural representative. That would be rather difficult to enforce if it became a commercial operation.

Mr. Breaugh: Okay, let me just stop you there. If for example this agency were sunsetted, the agricultural representatives would still be out there. The ministry would still be in place. All the people who could talk to them, reason with them or help them sort out their problems would still be in Ontario, so what can you do as an agency that makes a difference?

Mr. Ediger: I guess basically we can be sensitive to the needs of the farmers who are borrowing from us. The loan would still remain. Probably two or three times a day we get a request from a farmer for a partial discharge. Somebody is selling a lot or a parcel or something such as this off the land. Then there is the collection part of it.

We are saying we now have one or two staff members who are familiar with their requests and their needs. If it went to another agency, that agency would have to give exactly the same kind of service. It would then have to become familiar with the agricultural representatives and our network of people in order to give the field service. We know them now by name so we can contact them fairly easily. I do not see any advantage in moving it out.

It is sunsetted for all intents and purposes so if it was moved out somebody else would have to duplicate what we are currently doing. The question is whether they could do it as well as we are doing it.

Mr. Breaugh: Okay, let me just pursue that a little bit. It is my understanding the staff people you just talked about are basically ministry people now.

Mr. Ediger: Yes.

Mr. Breaugh: I am at a bit of a loss. If ministry staff people are now doing that work, what would happen tomorrow if the agency were out of business? It seems to me the ministry staff people doing that job today would be doing the same job tomorrow, employed by the same ministry, talking to the same people, dealing with them in the same way. Why do we have an agency?

Mr. Ediger: I guess the question would be why not continue the agency in order to do the housekeeping work. Why set up a new agency to do exactly what is being done now?

Mr. Breaugh: Let me just pursue this a little because I think this is the critical part of what we are dealing with here. I do not think anybody is talking about setting up a new agency.

Mr. Sewell: We are trying to buy it. There is somebody buying it at a discount.

Mr. Breaugh: What I am trying to sort out is that if the work is done by ministry staff today and I simply took the agency out and said, "Okay, instead of this Junior Farmer Establishment Loan Corp., the Ministry of Agriculture and Food will assume the assets and liabilities of that previously held corporation," the exact same staff people who are doing that job today would be doing it tomorrow. I just would not have an agency created.

I am not opposed to the idea of an agency that does things. It seems to me part of our job is to review agencies and find out what they do and what their relationship is and all that, but on this one I am somewhat puzzled. I want to hear the argument that says we ought to keep this agency in place.

Mr. Sewell: I think I understand what you mean now. I thought you were talking about somebody else buying it as a commercial operation. That could surely be done, and it is almost in effect being done, because Henry's job as executive director of food-land preservation has nothing to do with this corporation. Doug Jackson is in crop insurance. My job is in administration. We spend very little time on this, and presumably we would still do the same thing if it was taken over by the ministry.

I think there is probably concern over the confusion that could arise. You do have to have legal documentation to say the debt is still owing to the corporation. I do not know if it would be worth the extra effort and the confusion that could arise.

Mr. Breaugh: What I am trying to get at is to try to make a judgement of what bad things would happen if this agency was sunsetted today and we rolled it all into the ministry. From a logical point of view, it seems to me nothing bad is going to happen. The same people are going to be doing the same thing tomorrow morning as they did this morning.

I guess we are dealing with the mythology that there is a warm loving relationship between this agency and a lot of farmers around Ontario and that they would be terribly confused by it all, but every time I look for the practical ramifications of this, I come up with the same answer. If they have a problem, they are going to be calling an ag rep who is still in business tomorrow. If they are going to be calling, they are going to be talking to one of these people who will still be in business tomorrow.

I find it particularly confusing when it is pretty clear the government wants to sunset this agency. It is a matter of time, and I cannot quite find the rationale for not doing that.

Mr. Sewell: As I said before, I thought you were talking about selling it off to some commercial outlet. Personally, I do not think there would be any advantage in doing away with the corporation itself. It does not cost any more than it would if we were doing it as a ministry. You also get the thoughts of three people who are not directly the supervisor or the manager. Perhaps that is some advantage. I do not know.

Mr. Breaugh: To put it bluntly, the difficulty you leave me with is I am looking at an agency that is very nice, has done some good things, but has not really done anything in better than a decade. You are asking me as a politician to say, "Keep them in business because it is nice to have them in business," and I need something a little more concrete than that to do so.

We are supposedly reviewing agencies to see if they are still alive. In this case, the answer is yes, but barely. Then we are asking what they are doing, and in this case the answer is nothing that would not be done tomorrow by somebody in the ministry. I am supposed to have a rationale for saying this agency is 'in business, is working well and ought to continue, and I cannot answer those questions, let alone say yes to them.

Mr. Ediger: I guess I would not agree with you that it is alive and it is working well for the purpose of the agency now, which really for all intents and purposes has been sunsetted, but why go through the legal ramifications of dispensing with the agency in order to do exactly what you have to do otherwise without the rules and regulations of the agency? Then you would have to print your own rules and regulations. I think it would be a lot of extra work in order to do exactly what we are doing now.

Mr. Breaugh: How would it be a lot of extra work? I do not understand.

Mr. Ediger: I do not know the legal ramifications of dispensing with the agency and setting up something different to administer it.

Mr. Breaugh: Why would you not simply have the ministry administer it?

Mr. Ediger: The ministry is administering it.

Mr. Breaugh: Somebody has got me confused here. I do not understand all this.

Mr. Ediger: We have an act--

Mr. Breaugh: I got that part.

10:50 a.m.

Mr. Ediger: --that says you administer the loans as we currently administer them. The minute you take the act away, you have to go to parliament and revoke the act. Then you have to set something up to administer this. That obviously would not be an act, but it could be regulations or something that would say, "Here is how you administer this."

Mr. Breaugh: I think the reason I am having some difficulty with this is that, for example, the year before last the Minister of Municipal Affairs and Housing (Mr. Bennett) wrote to all the municipalities and in essence said: "We know there are lots of acts still on the books that do not apply to anybody any more: street railways that do not exist; acts that were set up to give loans to some little company that is the sole industry in a town. All of them are pretty redundant."

It was just a housecleaning move. In 15 minutes of debate we did away with about 500 pieces of law, because it is generally held it is not a good idea to have an act on the books that is somewhat deceptive. People see there is this act to provide loans to junior farmers and they think, "I better get my application in there." Then they find out the agency has not really given out any loans for quite some time. It is generally held that if it is not in business, so to speak, it should not be on the books.

I am really wondering why we would not consider recommending that we simply absorb this into the ministry. The ministry is now the legal entity as opposed to this Junior Farm Establishment Loan Corp. and away we go.

Mr. Sewell: The only thing I can see that may be a problem, and I am not just sure how that would work, is that the 2,800 outstanding mortgages are all in the name of the corporation and that is the way it is recorded on the title of the property in the registry office.

Mr. Breaugh: I could write on the back of an envelope the act that says, "We are going to dissolve this agency and its assets and liabilities will be absorbed by the Ministry of Agriculture and Food."

Mr. Sewell: Would it not be extra work to do that?

Mr. Breaugh: I can do it on the back of an envelope and would do it for \$20, frankly. Dick would charge \$30. Others would charge more.

Mr. Rotenberg: Then it would be the subject of legislative debate for four days.

Mr. Breaugh: It depends on whether it is a sensible act or a stupid act, David.

Mr. Rotenberg: We do not bring in any stupid acts, Michael.

Mr. Breaugh: You have not all summer, that is true.

Mr. Rotenberg: We have not for four years.

Mr. Breaugh: Frankly, I have not heard much of an argument that says the agency ought to be continued. Is that a fair statement?

Mr. Ediger: I suppose it is. I guess I have not heard a very good argument that the agency should not be continued.

Most of what is in the act still applies to administering existing loans. The only thing that does not apply is the granting of new loans, so it is not as if the act is no longer relevant. It is not relevant to granting new loans. That is the only part that is not relevant in the act.

Mr. Breaugh: It is just that you and I have different perspectives on the same thing. As a politician I am supposed to be looking at agencies and seeing what they are up to. I find one that has a pretty good case of rigor mortis and I am being asked to continue its lifespan. I am having some difficulty rationalizing why I did that.

Mr. Ediger: Every borrower will want to know how we are going to continue administering his loan for the rest of the term of that loan. Rather than just saying to him on the back of an envelope, "The agency no longer exists," I think we would have to make him feel comfortable that something exists that is very similar to the existing agency. I think the borrower would have the right to say: "Why did you write this out? What do I now have legally that is going to ensure the same kind of service I have been getting in the past?"

Mr. Breaugh: Quite frankly, the reason I do not quite accept that argument is that in my own mortgage, I had another mortgage company buy out my mortgage. I did not go through serious trauma. I did not have a nervous breakdown. It did not make any difference to me. I pay the same amount of money every month and it does not matter whose name I put on the cheque. My family and I seemed to handle that traumatic experience pretty well. I do not understand why people who are involved in these mortgages would have a great problem with it.

Mr. Watson: Is it not fair to say that if you follow this, instead of having the junior farmer establishment loan board you would have to have a junior farmer branch in the ministry or something equivalent?

Mr. Ediger: Something such as that, yes.

Mr. Breaugh: I told you we would probably keep this in operation. It is stupid enough that it will fly.

Mr. Watson: I could agree with you if you were selling it out. The commercial people who have your mortgage are doing that for whatever reason; a commercial business. I have not heard it suggested here, and maybe we should explore it more, that that loan be sold at discount. We have discussed around it, but nobody has said, "Hey, we should sell it to a bank or sell them all to a federal crown corporation," or something like that.

Mr. Breaugh: I have not heard anybody suggest that. No, I am just making the case that I am having difficulty saying that the agency should stay in business when the role of the agency is actually done, for practical purposes, by ministry staff now; when the agency has not been active in more than a decade and when I am listening for the argument about why the agency should stay in business and I am not hearing it.

Mr. Ediger: If you are looking for a very good reason it should stay in business, you are not going to hear it. We are not in the business of making new loans, obviously, which was the main reason the corporation was started. On the other hand, we would have to hear a good reason it should be dissolved as long as there are outstanding loans. After 1999 I do not think you would get a very good argument from anyone that the agency should continue.

Mr. Sewell: I do not know if you can compare the trauma of a mortgagor with a commercial mortgagee, say, with a government agency that is transferring a five per cent loan to someone else; I think there would be a concern about what is going to happen to that loan. Sure, you have the original mortgage document, so once a year you still make a blended payment or whatever it was; but there could be some concern. That would be a political consideration, I would think, not an administrative one.

My concern, frankly, would be how you do this, and I think you would create an administrative cost. I do not think we would do things on backs of envelopes.

Mr. Breaugh: You would be surprised how things happen around here.

Mr. Sewell: Yes. I used to when I was outside, in commerce, but inside you have to do things in triplicate or whatever it is and you have to do things so that every party is satisfied. I frankly think there would be a fair administrative cost.

Mr. Breaugh: Let me pursue that for a moment. What do you think it is going to cost us to keep this agency in operation until 1999?

Mr. Sewell: Probably the cost of the two staff who are doing it. Maybe it will drop to one staff by that time.

Mr. Breaugh: Can you give me a ball-park number?

Mr. Sewell: In dollars?

Mr. Breaugh: Yes.

Mr. Sewell: Our present cost was about--I think it was in my report. Here we are: it is \$75,000. I estimated that the cost of the two clerks with their benefits is about \$50,000; computer terminal and computer time about \$23,000; and postage, etc., maybe \$2,000. That was a rough guess: \$75,000. It does not take into account the cost of Norm MacLeod's time or our time. We usually meet once a month for about two hours on the board business. In 1984 dollars it would probably stay that way until the beginning of the 1990s, and then some time it would drop off.

Mr. Breaugh: But, to be fair about it, the ministry staff people's time should not be involved in this, because they would still be working doing the same thing next year, whether the agency is in place or not. So it is roughly \$150,000 a year at the agency.

Mr. Sewell: It is \$75,000, I think, for the two staff members and the system.

11 a.m.

Mr. Rotenberg: I would like to ask something. I really think the key to this whole thing is that I am not very worried about who writes the cheques or where the cheques go. If the agency were abolished, there might be some costs because the mortgage would have to be made out straight to Her Majesty in right of Ontario instead of the agency; we are getting that cost.

But if the agency were abolished and all the loans were made directly by the ministry, would there be any difference in cost to the government if we kept it as a corporation or if it came directly under the ministry? Would any procedures change and would there be a cost differential?

Mr. Ediger: I could not see any.

Mr. Rotenberg: In other words, if it came under the ministry, you four people would do exactly the same thing as you are doing anyway.

Mr. Ediger: Probably.

Mr. Rotenberg: Are the two clerks paid by the corporation or by the ministry?

Mr. Ediger: The ministry.

Mr. Rotenberg: They are paid by the ministry anyway. So the only difference would be that the corporation would disappear from the books. There would have to be something in the registry office which would be a minor administrative cost. Almost \$2,000 would have to be somehow adjusted so they would pay Her Majesty in right of Ontario through the corporation. Once that is done, everything would be exactly the same.

Mr. Sewell: The farmer would want to pay his cheque to --

Mr. Rotenberg: He would pay it to the Ministry of Agriculture and Food or it would be directed to someone. The key to this whole thing is that no one would do anything differently. There would not be a penny difference in cost if we abolished the name and had it done directly.

Mr. Breaugh: This I cannot believe.

Mr. Rotenberg: This is what interests me. It is what Mike was getting at. We want to know whether there would be any difference.

Mr. Ediger: I cannot see that there would be any difference. I cannot visualize anything different.

Mr. Breaugh: I cannot either, but I believe in creative accounting. I think that is what we are into here this morning. Are you telling me you are running an agency of the government of Ontario at zero cost? Not on your life.

Mr. Rotenberg: No, what I am saying is you are running it at the same cost as if you ran it as a minor branch of the ministry, a section, or whatever they call them when they get that small in the ministry.

Mr. Breaugh: I believe the cost is minimal, but I do not believe this government does anything that costs zero dollars.

Mr. Rotenberg: No, it is not that. It is whether it costs any more dollars to have it as an agency than to have it as a branch.

Mr. Breaugh: I will see you later about this swamp land in Florida I have, David. I might be able to work out something for you.

Mr. Rotenberg: I hope so. I will give you a whole dollar for it.

Mr. Breaugh: For those of you who believe the government of Ontario could do something at absolutely no cost--

Mr. Rotenberg: Michael, no one says it can be done at no cost. What we are saying is the work might be done at more cost. That is the thrust of that.

Mr. Ediger: I really think it probably costs more. The setup would probably be more complicated than it is today. I cannot visualize that it would be any cheaper.

Mr. Rotenberg: None of you are lawyers, I gather.

Mr. Ediger: No.

Mr. Rotenberg: I do not know. Maybe the chairman can help us.

Mr. Watson: Oh, boy.

Mr. Rotenberg: If we did abolish the corporation, that would be all the more reason that it reverted to Her Majesty in right of Ontario through the ministry. Would there have to be something done with each individual owner or registry officer or would it be just a matter of telling the people, "We bought these loans, the government is taking them over and is writing your cheques from now on?" Would there be any major administrative costs in transferring it over directly to the government from the program?

Mr. Chairman: There would have to be new legislation. You have created this organization by legislation, so you would have to kill it by legislation and simply vest the assets, liabilities, duties and authorities in some other body or portion of a body.

Mr. Rotenberg: Then each individual farmer out there would get a letter saying--

Mr. Chairman: No, he would not get a letter.

Mr. Rotenberg: He would have to know where to send a cheque to somebody.

Mr. Chairman: There is the problem. Those long enough in the tooth will remember the Soldier Settlement Board rolled into the directors of the Veterans' Land Act. The Canada Company had all kinds of lands around and in 1919 they rolled into the Ontario government because of back taxes. That caused a lot of confusion.

There is a piece of legislation drifting around somewhere, but people years later had a lot of trouble finding that out. I have gone through the Canada Company, and you have to get down to this zoo down here to try to clean up a title with the Canada Company that was vested over in some branch of some ministry here. It was a zoo to try to get anything back out of that. It is okay when it first happens but only the odd solicitor who does farm real estate all the time would know how to track that through. So you have a lot of slashing around trying to find your track.

Mr. Rotenberg: Yes, but Dick, with respect, if we passed legislation that terminated this agency and folded it all into the government, then that legislation would give the government or the Ministry of Agriculture and Food some other right to discharge mortgages. It should be something relatively simple.

Mr. Chairman: But nobody knows about it out there.

Mr. Rotenberg: I think it would be incumbent upon someone to send something to every person who has a mortgage saying, "From now on you send your cheques to the government because they now own your mortgage."

Mr. Breaugh: A lot of them are under the false impression they are paying their money to the government of Ontario now.

Mr. Rotenberg: Yes, but they make the cheque out to the Ontario Junior Farmer Establishment Loan Corp.

Mr. Chairman: But if they throw that letter away and 10 years later they go to discharge the mortgage, neither they nor their solicitor will know anything about it. Remember, the solicitors may only deal with the discharge of a junior farmer mortgage once every couple of years, or something like that. You only have 2,600 left, spread over all the solicitors in Ontario and spread over 17 or 20 years, so it is not a very common thing. They will not know where to send their money.

Mr. Rotenberg: Are you saying as my solicitor that it would be more complicated for the mortgagor out there if we switched than if we left it the way it is?

Mr. Chairman: Yes.

Mr. Sewell: There would be the cost, of course, of the legislation.

Mr. Watson: What happens to the money when it comes in now? Let us be the devil's advocate for a minute. Suppose we were to change it to a ministry program out of the junior farmer corporation. When Allan sends his cheque in he sends it to the Ontario Junior Farmer Establishment Loan Corp. What happens to it when it comes into your office?

Mr. Ediger: We deposit it and then pay it over to the Treasurer.

Mr. Sewell: We pay it to the Treasurer to repay the loan he gave us to fund these things.

Mr. Watson: Okay, but just for our information, track the payment that Allan McLean makes with respect to timing, amounts and how often payments are made to the Treasurer--that kind of thing.

Mr. MacLeod: Let us say he makes his payment on the due date, as of course he would. If it came in on June 1, it would be banked in our current account with the Bank of Montreal. At a time like that, when a lot of money is coming in, we will probably transfer an amount of money of between \$200,000 and, say, \$700,000 or \$800,000, depending on the income, to the Treasurer. So his payment would probably go to the Treasurer within a day or two of the time it hit our bank account.

Mr. Sewell: Along with several others.

Mr. MacLeod: That is right. If it came in later, perhaps three months past the due date, it might be in the account for as long as a week, but it would not be there much longer than that. The auditor has mentioned that we should keep our balance down to approximately \$30,000 as a kind of working amount, and that is what we try to do. So what I am saying is that any payment does not stay in that account very long.

Mr. Watson: Your due dates on all the mortgages are in June and December?

Mr. MacLeod: That is right, June 1 and December 1.

Mr. Rotenberg: Why do you need any money in the bank?

Mr. MacLeod: We still have to make some payments out for refunds of insurance, for instance.

Mr. Sewell: You have to keep the account open.

Mr. Rotenberg: What kinds of insurance? Mortgage insurance?

Mr. MacLeod: All mortgages beyond \$20,000 are insured. Payments are made, and in some cases if a loan is discharged, there may be a repayment, a refund.

Mr. Rotenberg: Again, if the agency were sunsetted and went into the ministry, you would have to keep that same balance for the same reasons.

Mr. MacLeod: Sure.

Mr. Breaugh: May I ask a couple of questions? Has anybody ever calculated how much it costs to have you gather in the money in one source and transfer it to the Treasurer? The money eventually winds up with the Treasurer of Ontario. How much does it cost to send it to your agency, have you process it and then turn it over to the Treasurer?

Mr. Ediger: You mean in lost interest or in handling?

Mr. Breaugh: In any way: lost interest, actual handling costs.

Mr. Sewell: A lot of the direct cost of the agency, the \$75,000, is to run that through.

Mr. Breaugh: Oh. So you are saying that the ball-park figure would be about \$75,000 a year?

Mr. Sewell: Roughly, yes.

Mr. Ediger: But that includes everything.

Mr. Breaugh: That includes things like insurance costs and things of that nature?

Mr. Ediger: It includes the two staff we are talking about.

Mr. Sewell: Mailing out the notices.

Mr. Breaugh: Does that include your insurance?

Mr. MacLeod: The insurance is paid by the mortgagor.

Mr. Sewell: But it would include handling.

Mr. MacLeod: Handling the insurance, yes.

Mr. Sewell: We pay the insurance company.

Mr. MacLeod: The money comes in to us and then we pay it to the insurance company.

Mr. Rotenberg: The key point is that if it is transferred to the ministry, the cheques would then be made out to the Treasurer of Ontario. Would it still be processed by someone in your ministry office and then sent to the Treasurer? That cheque may go directly to the Treasurer, but the processing would be the same; it just might not be the bank thing--

Mr. Breaugh: Except that you might be able to process it only once as opposed to processing it twice.

Mr. Sewell: No, we bank all the revenue that comes in to us, whether it is for licence fees, publication or whatever, and make out a transfer to the Treasurer of Ontario, which goes in to Revenue.

Mr. Breaugh: What we are really saying, though, is that if it costs you \$75,000 to process that money, it probably costs the Treasury office \$75,000 to process it too.

11:10 a.m.

Mr. Ediger: No, no.

Mr. Breaugh: No? They do it for nothing.

Mr. Ediger: How would that cost them \$75,000? We do all the individual accounting. The Treasury office just gets the cheque from us.

Mr. Sewell: We send out monthly statements.

Mr. Ediger: The Treasury people just enter it in their computer.

Mr. Breaugh: This is another of those occasions when it costs you \$75,000 and the Treasury does it for nothing.

Mr. Ediger: No. What do the people there have to do? They do not have to do anything.

Mr. Breaugh: I could ask the same question of you: What do you have to do?

Mr. Ediger: We have to do the individual accounting, so we bank the cheque and then take a \$700,000 cheque or whatever it is and transfer it to the Treasury. Treasury does not have to make

sure the \$700,000 covers 500 loans or anything. It does not do anything except deposit that money.

Mr. Rotenberg: You have to look after 2,000 accounts; the Treasurer looks after one account.

Mr. Ediger: Treasury would just get that amongst a lot of other deposits from other ministries. To put it into its computer there would be literally nothing except one entry.

Mr. Breaugh: I am having to believe the Treasurer (Mr. Grossman) could do something for nothing too, and I do not believe that either.

Mr. Ediger: What does he have to do?

Mr. Breaugh: I do not know what he has to do, but I can guarantee he does not do it for nothing.

Mr. Rotenberg: The point is, does it cost the Treasurer any more to do it from the agency than it would if it came in from the ministry? That is the point.

Mr. Sewell: It would be the same.

Mr. Rotenberg: I agree there are costs, but I am trying to question whether there is any additional cost in keeping the agency than in having a group of folks down there called the front administration section of the Ministry of Agriculture and Food doing exactly the same thing.

Mr. Breaugh: I am trying to get a bit of a handle on that and I think what I am left with is that although it is tough to put a figure on it, you are admitting to an administration cost of \$75,000 which probably could be cut somewhat, but there would still be an administrative cost there.

Mr. Ediger: If the cheques came to us and the Treasurer had to deposit each individual cheque, then the Treasurer would have to set up a system to deposit individual cheques and we would have to make sure they came off the right loan. Then we would have a duplicate system and I would suggest that would probably be more costly than what we have currently.

Mr. Breaugh: I am seeing here that something less than \$75,000 is needed to process them. The savings would probably come from not having the auditor running around doing an extra set of books.

Mr. Sewell: We would still have to be audited.

Mr. Breaugh: You would still have to be audited, but you would only be audited once with the Ministry of Treasury as opposed to the two agencies. We would have saved some money, for example, on the public accounts committee which has met on this matter once. That does not happen for nothing. This committee has met on it today and will again on at least one other day, and that

does not happen for nothing, so we are not looking at large amounts of savings here, but if you extrapolate that over the remainder until 1999, we are looking at maybe \$50,000, times 15 or 16 years, or whatever.

Mr. Sewell: I do not think there would be any savings.

Mr. Breagh: I can tell you one way there would be some saving. I do not know what it would cost to have our staff member do a research report on this, but that did not happen for nothing. This committee does not sit here today for nothing. We will grind out pieces of paper which does not happen for nothing. Someone is liable to read them in the Legislature and that could cause all hell to break loose. There could be an actual debate or something. I do not know what it costs per minute to listen to that debate, but it does cost something, so there are costs.

Mr. Rotenberg: You should think of that some time when you are holding forth.

Mr. Sewell: On the ongoing administrative costs there would be little saving.

Mr. Breagh: The ongoing administrative costs would appear to me to be rather minimal. It is not a large amount of money. What would make it a slightly larger amount of money would be to let it run on for 15 to 20 years.

Mr. Villeneuve: Mr. Chairman, I certainly do not believe in changing for the sake of change. That is exactly what we are talking about today. I worked in the farm credit field for the Farm Credit Corp. for 13 years and basically there were two financing agencies out there, the Farm Credit Corp. and the Ontario Junior Farmer Establishment Loan Corp. The bankers know automatically that if it is Ontario junior farmers it is a five per cent loan, no problems.

If you change this, you would wind up with probably half the cheques the first couple of years going to the wrong name, to start with. Second, you would have to establish a successor to the Ontario Junior Farmer Establishment Loan Corp., and that would be confusing and quite time-consuming and costly. As far as I am concerned, changing for the sake of change is not worth even discussing.

I would like to know how you handle fire loss situations. Do you reduce the mortgage or do you reissue immediately if he plans to rebuild? Second, severances have become quite a problem. Do you have to have re-evaluations or reappraisals, or do you simply have someone look at it? If there is a fairly substantial portion of what was the security being severed, can you take a partial payment? How do you handle that?

Mr. MacLeod: You have to take the partials first. We do not do any re-evaluation of the value of the property, and if a loan has a certain mortgage balance, then that stays. If someone asks for a partial discharge, let us say 100 acres out of a 200-acre package, my normal reaction to that is fine, we can

arrange for that partial discharge provided the mortgage balance is paid down to 50 per cent so we are not advancing any more money. It is a matter, I guess, of ensuring the security per acre is the same after the partial discharge as it was before. In that sense, if that is agreeable, the money comes in, the partial discharge is approved and that is the end of it.

If we get into situations where a farmer is trying to pay down his debt and he wants to sell off part of our security and he does not have the finances to pay us off, then that goes to the board of directors and it may decide in its wisdom to allow that partial discharge to go through without payment against principal or perhaps with a reduced payment against principal. That is basically how we handle partial discharges.

Mr. Villeneuve: So you go through a process of negotiation from time to time with your farmer mortgagee out there and you come to something that is mutually agreeable.

Mr. MacLeod: That generally happens. But perhaps I could point out that in the last while a pretty good percentage of our partials were because of the financial problem, so we got into more requests for deferment of that payment against principal. Where the conditions warranted, that was granted.

Mr. Villeneuve: On fire losses, do you require a rebuilding clause or do you specify it?

Mr. MacLeod: There is a rebuilding clause. I am not sure whether you fellows can help me on this. I do not know whether every insurance policy has a rebuilding clause, but certainly a number of them do. In the case of fire loss, we sign that back over to the mortgagor and he goes ahead with his rebuilding.

Mr. Villeneuve: Obviously, the fact that you have lost very little money over the years says it is being well administered or something is happening right, whether you call it the Ontario Junior Farmer Establishment Loan Corp. or whatever.

I guess that is about all the questions. I have a great deal of respect for your organization, having worked for the other one which was tandem and having sent most of the people who were under 35 years of age to explore the possibility of going to you before they came to the Farm Credit Corp.

Mr. Rotenberg: I have one further question. When this was first set up, was there an active board of directors who were not employees?

Mr. Sewell: No. The act requires that the board of directors be public servants.

Mr. Rotenberg: Why is that?

Mr. Sewell: So you cannot have an outside--

Mr. Rotenberg: It was was treated almost as a in-house agency rather than an outside agency. At one time, the board of directors had a lot more to do. Were they paid extra?

Mr. Sewell: No.

Mr. Rotenberg: So there was more staff and you had evaluators, people going out and so on.

Mr. Sewell: There was an entire branch. In fact, Henry was the manager back in the late 1960s.

Mr. Rotenberg: I see. So what you have done is you have brought it down--I do not know how many employees you had in the late 1960s--to two employees.

Mr. Ediger: We had about 30 in-house staff, and we had about 30 or 35 appraisers who were hired on a per diem basis; so there were quite a number of people involved. There were a lot of lawyers involved, on a fee basis obviously.

Mr. Rotenberg: When a loan is discharged, normally the mortgagor pays the discharge fees. Do you have one of your ministry lawyers who does that? There is a bit of charge there, but there would be a charge there no matter how you did it.

11:20 a.m.

Mr. Chairman: Might I just touch on two things? After 1999, is there not going to have to be legislation of some kind vesting the authority of the corporations in someone else? I am thinking of those discharges of mortgages that get stuck in the bureau drawer and then someone comes along in the year 2002 or 2010 and wants a discharge. There is going to have to be someone with the authority to give a duplicate or to tidy up things at the end.

Mr. Ediger: Norm worries about that.

Mr. Chairman: There will have to be some continuing body vested with that authority at that point.

Mr. Ediger: I presume so.

Mr. Chairman: The other thing is on assumptions. How do you know the farm has not already been sold to relatives and they are just carrying on their payments and it is has actually been assumed? How do you know if you keep getting your cheques?

Mr. Sewell: I think that has happened once or twice.

Mr. Chairman: I know it has happened and they just do not bother telling you. The cheques keep coming in.

Mr. Sewell: That is right.

Mr. Watson: Is that not the reason you changed your policy for the assumption of mortgages when the original one said you were not going to assume them?

Mr. Rotenberg: They are registered, are they not?

Mr. Chairman: Yes.

Mr. Rotenberg: Can there be a sale register of the mortgage that is being transferred?

Mr. Chairman: Yes. There is no mortgage transferred; it is assumed.

Mr. Rotenberg: It is assumed.

Mr. Chairman: David, if I hold the mortgage on your house and you sell your house and give a deed to Noble and he pays you the money and registers his deed, unless he contacts me to find out what the balance of the mortgage is, I never know.

Mr. Rotenberg: Is it not normal for the purchaser or vendor to inform the mortgage companies?

Mr. Chairman: No. In fact, it may be an in-family thing where he knows the balance on the mortgage, he has got the mortgage statements--you probably send out yearly mortgage statements. He has got it there, they have got cancelled cheques, he can prove all the payments since. The purchaser wants the five per cent money. He does not want to tell these people in case they say, "Pay it off." They just do it privately and the cheques keeps coming from a corporation or from the wife, who always wrote the cheques, and 10 years later these people do not know. They have never had a kick at the cat.

Mr. Rotenberg: But they are fully protected as far as their assets are concerned.

Mr. Chairman: Nothing happens. They are in first security subject only to taxes. They always remain in first place.

Mr. Watson: I suggest that when they originally went into business they said there would be no assumptions, and when they finally realized that sort of thing was going to happen, they thought they had better do it above the table rather than below.

Mr. Ediger: A good reason.

Mr. Sewell: How many do we have left?

Interjection: We have 37.

Mr. Ediger: We could still have a number under the table.

Mr. Sewell: We had 37 last year and 15 the year before. Some of those are father-to-son or family farm transactions.

Mr. Chairman: Are there any other questions?

Mr. Watson: Just in terms of philosophy, I want to pursue this fact because we are going to have an argument later with Mr. Breaugh. I can see it coming. In terms of the philosophy of the ministry at present, does the beginning farmer program align somewhat with the philosophy of what the junior farmer loan

originally was, in other words, to get young people started in farming? If somebody said, "Okay, we are going to do away with the name," would it be safe to assume that the people who are dealing with the beginning farmer program might administratively deal with the junior farmer loans?

Conversely, has there been any discussion the other way to say the beginning farmer program should have come under the junior farmer loan administration?

Mr. Sewell: I do not think that happened. In the 1982 reorganization, a farm assistance programs branch was created, and Nancy was the second director of that. One of its objects was a farm assistance program policy, and then there were some of the newer, larger programs such as the farm adjustment assistance program and beginning farmer program.

At one time there was some consideration of whether the junior farmer corporation activities should go to Nancy, but it was thought they might as well stay where they are, because there is no advantage in that. I notice they have to move several big farming systems over.

Mr. Watson: So what you are saying is that you and the ministry have already considered what Mike is suggesting?

Mr. Sewell: As an activity, yes.

Mr. Breaugh: That is not what I am saying.

Mr. Watson: You are saying it should be taken over by--

Mr. Breaugh: I will say what I want to say, Andy, and you can say what you want to say.

Mr. Watson: What I am getting at is that it has already been looked at and considered and we said no, we are not going to do it that way.

Mr. Sewell: As an accounting or bookkeeping cost, it could have gone to Nancy; it could go to the accounts branch. That could happen when the number of mortgage loans shrinks, when the activity is no longer there. It is a question of whether we should still retain two people full-time. But that will not happen until--

Mr. Breaugh: Is it fair to say that if every loan were simply going to be an accounting thing, it could happen right away; but the fact that there are partial discharges, that there are extenuating circumstances for arrears and payments, is one of the main reasons you want to keep it a separate function?

Mr. Sewell: Oh, yes.

Mr. Breaugh: Is it possible that the board would make a decision somewhere down the line that it is not going to give partial discharges any more, that as the amount goes down you are going to say, "Hey, pay us off"?

Mr. Sewell: That could be; that is possible. We try not to make them now except for some reduction of the outstanding mortgage.

Mr. Ediger: But if you are asking about creating another lot of partial discharges or something, that should not be the function of the board. Surely that should be the function of the foodland preservation branch; that is, commenting on severances.

Mr. Watson: Yes, but your leverage on this, if a fellow has a \$30,000 mortgage at five per cent and he writes in and says, "I want to sell a lot off the corner"--

Mr. Ediger: But that falls under the local planning and so on.

Mr. Watson: Yes, but what are you going to do about his partial discharge? You could have a policy that says if you want to have any severances at all, your mortgage comes due. It might be a great way to discourage severances.

Mr. Ediger: I would sooner discourage severances in other ways, though. Surely that should not be done with 2,800 loans when there are 80,000 farmers out there; that is rather discriminatory. If the Farm Credit Corp., the banks and everybody else were all going to discourage severances in this way, we could consider it, but--

Mr. Breaugh: That is an interesting point. You are really saying that if I have one of these five per cent loans and I get a severance, I can keep the five per cent loan on it and sell the property off at current rates. That is kind of neat; I like this idea.

Mr. Ediger: We do not say that you sell it off at current rates.

Mr. Breaugh: No, you do not say anything. I am saying it could happen.

Mr. Ediger: It can happen if the farmer is in financial difficulty. As we try to help farmers in any other way, surely if he is able to continue farming and can sell a lot off, and if the municipality allows him to sever it, we should go along with it.

Mr. Breaugh: How does he continue farming on a lot he has sold?

Mr. Ediger: No, if he is selling a lot to build a house off the farm. That is what a lot of our severances are all about.

Mr. Watson: You gave us an example of 200 acres split two ways, and that is pretty simple arithmetic. Can you give us an example of the person who is not selling because he is in financial difficulty but who is severing a lot from the farm? If it is one acre out of 100 acres, you are not going to ask for one one hundredth.

Mr. Ediger: That is right. My reaction is that the total amount should come in unless he has a good reason that it should not.

Mr. Watson: Okay. That is what I wanted to know.

Mr. Sewell: We have had a few in the last year because of that.

Mr. Villeneuve: I am sure you hear many good reasons that they should not send it in. But I do know you operate in such a fashion that if it is sold at a very high price, away beyond farm values, and if it is quite obviously going out of agriculture, you ask for the money; and that is the way it should be.

Mr. Ediger: That is the way we did it when we were in business and that is the way--

Mr. Sewell: We are still doing that now.

Mr. Watson: If you had a \$30,000 loan and you sold off a lot for, say, \$10,000, would you simply say that the \$10,000 has to come to you?

Mr. Ediger: My first reaction is that the total amount is payable on the principal of the loan.

Mr. Watson: Then you are discouraging severances.

Mr. Ediger: It is to his advantage to get the mortgage down, but most farmers are selling because they need some money. Farmers do not really like to sever a lot off unless they need money.

11:30 p.m.

Mr. Watson: Sometimes, if it is family or something of that nature, they think Johnny is going to build a house on the corner and then they are going to be able to retire to it.

Mr. Ediger: Severances are pretty hard to get now, anyway, unless they are for retirement.

Mr. Watson: It is becoming more difficult.

Mr. Chairman: Thank you very much, gentlemen, for coming in this morning and answering our questions.

The committee moved to other business at 11:31 a.m.

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
CHILDREN'S SERVICES REVIEW BOARD

WEDNESDAY, SEPTEMBER 19, 1984

Morning sitting

(20188114)

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Charlton, B. A. (Hamilton Mountain NDP)
Cureatz, S. L., (Durham East PC)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Mancini, R. (Essex South L)
McLean, A. K. (Simcoe East PC)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Witnesses:

From the Children's Services Review Board:

Bellamy, Dr. D., Vice-Chairman

Ford, J. E., Chairman

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Wednesday, September 19, 1984

The committee met at 10:10 a.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
(continued)
CHILDREN'S SERVICES REVIEW BOARD

Mr. Chairman: Gentlemen, we have a quorum. We have with us this morning the Children's Services Review Board. Mr. Ford is the chairman. Mr. Ford, will you identify people there for the committee and for Hansard, and do you have an opening statement, either written or oral?

Mr. Ford: Thank you, Mr. Chairman. On my left is Dr. Donald Bellamy, the vice-chairman of the board. To my right is Linda Gold, the administrative assistant. She is a member of the Community and Social Services staff who does whatever administration the board needs.

I do not have an opening statement. I think the research paper that was prepared for the committee outlines fairly succinctly the duties, responsibilities and organization of the board. Just to review that quickly, in case it has not been read, the board is established under three separate pieces of legislation: the Child Welfare Act, the Children's Residential Services Act and the Day Nurseries Act.

The purpose of the board is to listen to appeals against decisions of a director of child welfare or director under the Day Nurseries Act or the Children's Residential Services Act, the decision being to refuse to accept an application for licensing to operate a group home, to operate as a licensee in adoption placement or to have a licence to operate a day nursery.

In the event of an application being refused, the applicant has an opportunity to ask for a hearing before the board or, in the event of an existing licence being cancelled, a person has a right to appeal to the board. In the event of conditions being placed on the licence, the applicant has an opportunity to appeal to the board against the conditions that have been imposed. In all cases, the board convenes a hearing. It is my duty as chairman to empanel from the existing members of the board those who will sit on the hearing.

A quorum of the board for the purposes of a hearing is three. The board then listens to the case of the applicant and the case of the ministry and reaches a determination as to whether a licence was properly refused in the first place or was properly cancelled, or whether the conditions are appropriate. We have the power to substitute our judgement for that of the director and to direct the director either to carry out his expressed intention or to vary his intention and direct him to do something different.

The board is not extremely active; that is to say, on average there would be perhaps three, and in an unusual year four, cases of persons applying to the board for a hearing in the course of a year. Usually the hearings take two or three days and they are carried out under the Statutory Powers Procedure Act. As far as I know, there has been no appeal to the courts from decisions of the board, at least during the period of my chairmanship, which is now about five years.

That is all I have as an opening statement.

Mr. Rotenberg: I want to clarify how many members you have on your panel altogether?

Mr. Ford: The maximum is 11. It varies between nine and 11, depending on when people are appointed.

Mr. Rotenberg: I gather none of those is a government employee.

Mr. Ford: None is a government employee.

Mr. Rotenberg: I am trying to establish the arm's-length relationship between your board and the ministry and various civil servants. Ms. Gold is the administrator or secretary. What is her exact position?

Mr. Ford: Ms. Gold has various duties within the Ministry of Community and Social Services, but with respect to the board, her prime duties are booking rooms, arranging for the court reporter and any paperwork that needs to be done with respect to the hearing. She also processes any bills that arise from the hearings.

Mr. Rotenberg: Other than that she is an employee of the ministry, I gather?

Mr. Ford: She is an employee of the ministry.

Mr. Rotenberg: Has she duties other than those?

Mr. Ford: She has many other duties apart from those for the board, which are, as you can imagine, quite minimal.

Mr. Rotenberg: At a board hearing you say there is a court reporter, so she really does not act as secretary at a board hearing.

Mr. Ford: Ms. Gold does not appear at the hearings.

Mr. Rotenberg: You operate under the Statutory Powers Procedure Act.

Mr. Ford: Yes.

Mr. Rotenberg: That pretty well covers the procedures that disturb me in some of these hearings. I gather that whatever part of the ministry has made the case, say, and refused a licence

would present its report in writing to you in advance of the hearing, and this documentation would be given to the appellant as well.

Mr. Ford: The documentation that the board would receive in advance of a hearing would merely be the precise proposal on the part of the director to refuse to issue a licence, to refuse to renew a licence or to impose conditions. All the background information would come out at the hearing; we would not have it in advance.

Mr. Rotenberg: This is really the concern I have about some of these appeals from administrative decisions. It is throughout the government; I am not really aiming at you. What I am really getting at is that when the appellant--that is, the citizen--walks into that hearing, is he confronted with the reasons his licence was refused, or is he given that information in advance so he really has time to prepare his case?

Mr. Ford: In the ordinary course we much prefer as a board to have the applicant represented by counsel, mostly because the board's hearings are of a quasi-judicial nature and the average citizen is not really competent to examine and cross-examine witnesses and that sort of thing.

Between the legal services group within the Ministry of Community and Social Services and the counsel for the applicant, there is a considerable amount of discussion back and forth. As in any other sort of court proceeding it is supposed to share information about what its case is going to be, and in most cases the witnesses for each side are known in advance. I have the power to issue subpoenas, and I do so.

Mr. Rotenberg: The point I am getting at is that when an applicant is refused a licence or whatever, there is a ministry investigative file on that person indicating what he has done. There must certainly be internal reasons for which he has been refused that licence.

My reading of the Statutory Powers Procedure Act--and it may be incorrect--is that, in effect, the applicant who is coming before you on an appeal should have access to that file before he comes before you; he should be told all the reasons. I am trying to think of the words in the Statutory Powers Procedure Act that say, in effect, that if an allegation has been made against a party, that party must have all the reasons for it and in advance.

I am asking whether it is your practice, as I think it should be, that the appellant or his counsel has access to the ministry file and that there should be nothing confidential in that file about him, because any reason for which the ministry refused the licence, even if it deems it to be confidential, must be exposed at the hearing and he should therefore have access to it in advance. Is that a practice in your procedures?

Mr. Ford: That is not something the board per se has looked at; that is to say, we have not examined the amount of access that the applicant or his representative has had to the

ministry files. In one or two cases, there have been complaints by counsel for the applicant that there was information he did not have before the commencement of the hearing, and in all cases we have listened carefully to the arguments of the ministry and the arguments of counsel about whether the hearing should proceed before counsel has had a chance to determine what is going on.

10:20 a.m.

The only case in which that has really been an issue is a case in which a person associated with one of the applicants had threatened witnesses. Consequently, some of the information, for the protection of witnesses, was withheld from the counsel.

Mr. Rotenberg: Other boards similar to yours, which have the same function, have had the problem in which the governing body--which in this case would be the ministry, but let us say it was not this ministry--would say, "We have certain confidential information about the applicant which we cannot reveal." That would be one of the reasons they would have, say, in this case, refused a licence.

Even when you get to a hearing, the equivalent of the ministry person will say: "I am sorry. We have confidential information and we cannot disclose that." Yet it was part of their decision-making process.

My opinion is that when someone gives a ministry person or his equivalent confidential information, that person must say, "Either I cannot use it or I may have to reveal it if I am asked to." To get to your level, I do not feel the ministry should be able to have confidential information, on which it bases a decision, which it does not reveal. I think that is contrary to the Statutory Powers Procedure Act.

Have you run into that sort of situation? What would be your ruling? Do you have some policy which goes into effect when an applicant says, "I want to see the whole file"? Do you say to the ministry, "Yes, you must show the applicant all of the file, including what may be confidential information," that would be, in effect, allegations of wrongdoing against the applicant? Unless he sees that allegation, which is confidential, he cannot defend himself.

You understand the problem I am getting at. I am wondering if you have run into that, what your reaction might be, and how you interpret that in the light of the Statutory Powers Procedure Act?

Mr. Ford: Basically, the issues which come before the board rarely turn on the kind of thing you are describing. The kinds of issues which come before us have to do with the capability of staff in the entity, the conditions of the premises for which licences are proposed, and so on. We are not really dealing with deep, hidden secrets about the applicant. The issue has not really arisen.

We are not aware--and I think Dr. Bellamy would agree with

me--of any case where there was a hidden reason that became obvious to the board in anything that was going on. We have had no complaints--apart from the one circumstance I have mentioned, where the list of witnesses was kept secret largely because they were juveniles and because there had been threats against the witnesses. That is the only case I can recall where there has been any suggestion on the part of counsel for the applicant that there was anything hidden.

Mr. Rotenberg: When you walk into the room as a board, do you have no advance notice of what the case is on either side? Do you not get an advance file?

Mr. Ford: Apart from the documentation that the ministry has sent in its proposal to the applicant, that the licence be refused or changed in some way.

Mr. Rotenberg: In other words, would it be your practice that if the applicant says, "I want to see the whole ministry file," he would have access to that, or would you suggest that he should have access to that?

Mr. Ford: I am not sure of the answer to that. I think it would have to turn, in each circumstance, on arguments put forth by the ministry and by counsel as to what was in the file that related to the matter we were discussing.

There could be many items. For example, in a particular circumstance, we may have a subliminal appreciation that the program issues are of concern to the ministry, but that is not the issue on which the licence conditions are being changed or the licence is being refused. Consequently, we would not permit evidence on the program issues if they are not an issue.

Whether the applicant, at that stage, should have the right to go into program issues in the ministry's file when it is not an issue before the board is a different matter. In other words, I think my view as chairman would be that the applicant ought to have access to the relevant portions of a file, but not to the whole file.

Mr. Rotenberg: That is what I am talking about.

Mr. Chairman: Might I just take a supplementary on that? Does the board have access during the hearing to any information or documents that are not submitted at trial?

Mr. Ford: No.

Mr. Chairman: The researchers pointed out to me that in the act, the applicant or solicitor for the applicant must have access and an opportunity to examine all documentation that is going to be adduced at trial. He has to be given ample opportunity--I forget the exact wording--"afforded an opportunity to examine."

What type of time frame do you allow so there is not an

ambush? I presume it is not handed to him five minutes before the hearings are scheduled.

Mr. Ford: As a practical matter, if that was raised at a hearing and it appeared there had been insufficient time, the hearing would be adjourned, although that creates severe difficulties. We are not aware of any circumstance where it has been alleged there was inadequate notice given or time to prepare.

Mr. Breaugh: One of the things I noticed is that this board is not a particularly active one. I made some inquiries about why that would be the case, because certainly the whole field of child care has exploded, particularly in the private sector. There are now all kinds of variations on old themes of how you should look after children.

There are the new phenomena of--I guess the current term is "private nonprofit companies" moving into the whole field of child care. The interesting thing about that is you cannot quite determine whether they are (a) private or (b) nonprofit, because they say they are private so you cannot see their books and have to take their word that they are nonprofit.

It leads to an interesting question. In the board's opinion, why in the middle of all this explosion of child-care facilities are you hearing only three or four cases a year? Do you have a rationale for that?

Mr. Ford: That is a very difficult question to answer without giving views that are not necessarily well researched. I would have said that basically we rarely have an appeal where we are not impressed that the ministry has exhausted all the avenues of rectifying the situation before it comes to the position where it cancels the licence.

The cases where it refuses to issue a licence are mostly around the subject of adoption cases. We have had three or four adoption cases where the ministry refused to issue a licence on the grounds that the prospective placement was not an appropriate placement in its view.

Those are very difficult for us because usually where there is an adoption issue, there is a child who is within days of being born. That is when the ultimate decision is made that the prospective adoption placement will not be acceptable.

At that stage we have always felt it was necessary to mount a hearing almost on an instant's notice rather than have the child born and put into temporary care, if there are prospective adoptive parents who are appropriate for the child.

On cancellation of licences or imposition of conditions, the ministry usually has not been precipitate in its cancellation or imposition of conditions. I suspect therefore there are fewer cases than one might imagine there might be.

10:30 a.m.

Mr. Breagh: One of the things I have had some experiences with--in our area this private care facility thing has really boomed in the last little while. It is difficult to trace the reasons for the phenomenon, except that there is an obvious political one.

For example, a regional social services department that is charged with care of children in a number of ways does not like to lug around all those day care and nursery facilities in its budget and on its books, yet it has a legal obligation. In crass political terms it is much neater to say, "We are going to use private day care as opposed to building a new municipal day care centre, which takes capital budgets and means two- or three-year forecasts and more staff." It is much neater these days to say, "Let us ship this off to the private sector."

The problem seems to be that you cannot break the rules, because there are no rules. The standards for private day care are difficult to violate because they are not clear. The ministry is now going through a process of establishing standards. Private day care operators are saying, "I set up shop under one set of assumptions and now those assumptions have been changed on me."

When you hear appeals of that nature, do you find that part of the problem of hearing the appeal is that you cannot tell whether anyone broke the rules because it is not clear what the rules are?

Mr. Ford: I do not think so, because there always have been rules in the regulations for the Children's Residential Services Act or the Day Nurseries Act. There have always been rules that were fairly precise concerning the physical state of the facilities and the qualifications necessary for staff.

In the past two or three years there may have been a move to group home facilities, in particular, where the qualifications of staff are not there in terms of accreditation through university or child care training and so forth. Foster parents are essentially untrained people who are attempting to provide foster care for a specific number of children for which their home or facility is licensed.

There may well be cases in the future as a result of some of those foster parents not working out. That probably will have to do with the standard of care they are providing. I presume that would be adduced in evidence before the board as to the behaviour of the children and the conditions in which they live, rather than by reference to technical skills through accreditation.

Mr. Breagh: In a sense you are right. It is not difficult to make a judgement call as to whether someone is living up to the physical conditions of a licence. The premises in which they are operating a day care facility, for example, either have it or do not have it.

However, when one talks about programs and staff qualifications, it gets a little looser. I am aware that the ministry is attempting to tighten that up. Many of the private day

care operators in my areas are calling me saying: "What is this? I set up shop and entered into contracts on a certain basis. Now people I have never seen before are visiting my facility regularly saying, 'There is now a different set of rules.'"

Whether I agree or disagree with private day care, when you are arguing fairness it seems to me they have a point, and that they should know the rules. You do not seem to be getting many appeals about that kind of thing.

Mr. Ford: Not as yet.

Mr. Breaugh: One of the problems put to me is that it puts the operators in a very awkward position, because in the main they deal with local staff who seem very friendly and co-operative. Then someone who is usually nonlocal arrives on the scene and says, "Here is the new set of rules."

Finally, if they want to get formal and appeal it, they do not stand much of a chance of winning because their condition of staying in operation means that somebody--for example, the director of social services in the region of Durham, who happens to be a very nice guy, and the staff working in his office have a lot of power. If they decide not to place children in that facility, this guy is out of business.

They could object to new standards or whatever and win that case. Starting next Monday, however, someone who is a placement person in social services may say: "That is fine. They won the argument in principle. Let them have a victory party, but we are not placing any more children in that facility." That facility is then out of business.

So their argument is they are caught in a catch-22 situation. They cannot appeal because they cannot win. If they do not curry the favour of regional or ministry staff and stay on the good side of them, for whatever reason, they have a major problem.

Have you had people come before your board with that complaint?

Mr. Ford: No, we have not. I can quite see that would be a problem, because the fact that a group home is licensed does not mean it automatically has a clientele.

Mr. Breaugh: That is right.

Mr. Ford: Mind you, there is a whole series of different bases on which children will be placed within such a group home setting. For example, it could be the ministry itself with regard to a child released from training school, in which case it would be a ward of the ministry; or it could be a child in children's aid care, in which case the children's aid society would be making the placement. There are two or three different places a group home can look to obtain a clientele.

You are quite right. If the word was out in the community

that was a bad place to put kids, it would be very difficult for a group home to survive.

Mr. Breaugh: One other little problem related to that is we have just gone through an unfortunate exercise in my community around a private, nonprofit company arriving in town. I must say I followed it with great interest. There is a lot of mystery about how one gets the licence and the placement.

That is compounded by the fact that ministry staff--for example, there has been a professional explosion that goes along with this explosion of the provision of care. I appreciate there is a problem. You do not want people who get their professional experience all working for the ministry. It would be nice to say: "They worked in the private sector. They worked for seven municipalities. They worked for the ministry," all of that, but there seems to be an imbalance in the system.

So you do get the phenomenon of people working for the ministry saying, "We do not need this kind of group home in Oshawa," and then writing a report in the private sector--because they have a tendency to go from the ministry into private consulting work--saying, "Yes, there is a need for that kind of care." Then all of a sudden, a private, nonprofit corporation arrives and says, "Here we are to fulfil the need."

The difficulty is that, once in a while, it is the same human being making the decision that you ought to have this kind of care in the private sector and working on a ministry staff and saying, "Oh, yes, that is a good idea. I think we should have that," then going back to the private sector saying, "I am providing that service."

There are some who think--and I am one of them--that is not exactly the way to go. Appreciating the problem of trying to get staff around there, do you get complaints before your board of that kind of activity?

Mr. Ford: I am not aware of any such complaint at this time. Don?

Dr. Bellamy: I am not aware of it, Mr. Chairman.

Mr. Breaugh: I think part of the problem here is that this is all very new. There are lots of people who are jumping around. One time I meet them, they are working for the ministry. The next time I see them they are working in the private sector. They are consulting or doing work for the ministry. The next time I see them, they are running a group home. There is that problem.

Has the board addressed itself to that sticky little question I raised initially? I think we are going to have a problem of determining this private, nonprofit definition.

I am unhappy with the current situation where, if I wanted to, I could call myself Mike Breaugh Inc. and run a private, nonprofit, day care facility or group home facility or whatever. Just by my using that name, I protect my income and I do not have

to reveal my books to anybody, including ministry staff, I am told.

10:40 a.m.

Mr. Ford: I was going to come back to you on that point. I am not aware of any group home that operates without open books as far as the ministry is concerned. That is because the rate they charge is based in part on their own cost structure. As I understand it, there are maximums.

This is not something with which the board becomes involved. My understanding is that any one of these organizations is subject to audit by the ministry staff. They all make quite full financial disclosure to the ministry in support of their rates. So the salaries paid to the operators of such a group home would be known to the ministry.

Mr. Breagh: That is certainly news to me.

I will give you an example of one of the problems I suspect you may hear in the future. Most of the group homes in my area follow a common pattern. They have been established by some kind of community board. They usually reflect the need of parents of handicapped kids or kids who need special care or something like that. Some community group instigated the idea that we ought to have a group home for this group of kids, so there is a community board at work. Frankly, most of the staff in my estimation are overqualified and underpaid, but they want to do that kind of work. They are there nickel and diming, going along on a string.

They are now looking at private sector folks coming in and doing the job very well in certain aspects. They are very good on some kinds of public relations and not so good on others. It appears to me that sometimes they have a lot of high-powered people at the top and a lot of low-powered people actually providing the care, which causes me some concern.

The end result of that is some of my group homes are now in competition with the private sector. Here I have a community-based group home functioning which can provide care for \$20 a day, in that range, being put out of business so to speak by a private, group home that runs it at about \$28 a day. They are saying to me: "This is a little on the unfair side. Our books are open to the whole community, not just to the ministry, and we are losing contracts to the private sector here."

Have you had any appeals of that nature, where people are just basically saying, "There is an unfairness in the system"?

Mr. Ford: No. We have had no appeals like that. That in part is because of the circumstances in which an appeal to the board would arise. The board is really only activated in a case where a licence is refused; either an existing licence is cancelled or an application is refused or where conditions are placed on the licence which in the view of the licensee are unreasonable.

Consequently, for example, the board has no jurisdiction over the question of the daily rate. That is not a matter we are entitled to consider, apart from determining whether a group home can survive financially in the circumstances.

Mr. Breaugh: If a community-based group home did not have its licence refused but was simply snuffed out of business by the private sector moving in, that community-based home would not have an opportunity to appeal before your board?

Mr. Ford: Not to us, no.

Mr. Breaugh: Could you tell me where they could appeal?

Mr. Ford: I am not aware of anything in the act that would give rise to an appeal, apart from a political appeal, either through community pressure or to the ministry. There is no process I am aware of where a community board of a residential service would have a right to come to our board and complain about discrimination regarding rates or allocation of awards or that sort of thing.

Mr. Breaugh: One of the other phenomena I have encountered recently is that a lot of people are confused about these group homes and the regulations and contracts under which they operate. Part of the confusion stems from the fact that the regulations are, of course, done within the ministry and they are not broadly known; you can look them up. But you do find in many instances that it is the contract between the ministry and the private operator that really sets the rules. That is not exactly public knowledge or something a community can debate; it is a contractual agreement between the ministry and the private operator. That has caused a bit of a problem.

They are not all consistent; they are different from one to another. Some of the arguments we have had concern whether or not a private operator has fulfilled the terms of a contract. If a community group or individuals in a community felt the terms of the contract between the ministry and the private operator had not been adhered to, could any of those citizens appeal to your board?

Mr. Ford: No. The circumstances giving rise to an appeal are really quite limited and, consequently, unless there was a hearing on some other issue and the community group wanted to intervene in the hearing--in which case we have the power to hear them as interveners in the appeal--there would be no basis for them to raise an appeal with us without some of the defined events taking place.

Mr. McLean: To whom would they raise that appeal?

Mr. Breaugh: Yes, that is the next logical question. If they cannot appeal to you--and you would, on the surface, appear to be the board to which to appeal--to whom can they appeal it?

Mr. Ford: I suppose the only answer to that is, again, community pressure.

Mr. McLean: But on whom?

Mr. Ford: On the minister or the ministry staff. The local area manager would be the first place I would guess such a complaint would carry.

Mr. McLean: When the group home is formed, with whom does it make that agreement? Would it be the Ministry of Community and Social Services or the Ministry of Health? Is it an agreement for three years or five years? Is it renewable?

Mr. Ford: The licence is issued by the Ministry of Community and Social Services to the entity that is operating the group home, which can be either an individual or a corporation.

Mr. McLean: When it applies for that licence, does there have to be a hearing on it?

Mr. Ford: No.

Mr. Breaugh: I am hearing this same problem from a number of groups: there is not a vehicle whereby you can clear the air. You can meet with ministry staff, but since they gave out the licence in the first place, you know the obvious. You can meet with the private operator, but since he already has what he needs--the licence and probably the placement--there is no vehicle by which to air it when you encounter a dispute of some kind, whether it is a dispute from an operator over what the conditions were or a dispute from the community or from individuals. There does not appear to be a vehicle, even though this board would appear to be the obvious one, by which to hold hearings.

It is ridiculous when you read the contracts. When a private operator moves into an area, he is supposed to give notice; but it does not define what you really mean by "giving notice." He is supposed to explain programs, but it does not really define that, either. So he is not breaking rules, essentially, because there are no rules to break.

There does not appear to be a vehicle that clears the air on it and, of course, the end result is an immense amount of frustration and misunderstanding. The tragedy in this is that if you are running a group home, for example, the whole idea of integrating group homes into a community is to have that interaction with the community. If, when you open your doors, the community hates you and all your staff and is fearful of the children there, there is not much chance of a successful group home operation there. That seems to be the quandry we are in.

Mr. McLean: Once it is there, try to rid of it.

Mr. Breaugh: You cannot.

Mr. Rotenberg: If a person is refused a licence, he can appeal to your board.

Mr. Ford: That is right.

Mr. Rotenberg: I think I know the answer to this, but just to clarify it, if a person receives a licence, can an

interested third party appeal to you to say that the licence was issued improperly and should be revoked?

Mr. Ford: No.

10:50 a.m.

Mr. Rotenberg: To whom can they appeal?

Mr. Breaugh: They cannot. That is the problem. Whether it is an individual, a group of people, or a municipality, the deed is done by the time anybody knows about it. There is no notice requirement, there is no hearing requirement, and there is no appeal procedure.

It really does complicate the matter, and the tragedy is, of course, that in a community like mine--frankly, I do not think we even know how many group homes we have in my community, not that it is particularly relevant, but the reputation of group homes in Oshawa is pretty good. I would say we have more per capita than most communities in the country.

Mr. Cureatz: It has been good.

Mr. Breaugh: But it has been threatened by an incidence whereby people are saying--the traditional thing, from my point of view, is that whenever anybody wants to set up a group home, knock on doors in the neighbourhood and tell people what you are doing. Do not let them stand back with a whole lot of fears that really stem out of ignorance. Work the community and get that acceptance first, then build your group home and away you go. That has been a tremendously successful way of operating.

We have encountered a private operator who has insisted--as far as I can determine, legally--that they have a legal right to establish a group home and that their obligations, if they have any, are not to the community but to the ministry.

If there is no vehicle for appeal--there was no notification to the municipality or to anybody else that I can determine; in other words, the private operator decided how to notify people and how to explain programs. It is not a zoning problem--

Mr. Rotenberg: Mr. Chairman, if I could just intervene on that for a moment, there is another side to that coin. We have seen it very much at the edge of my community, and your colleague from Downsview has been very much involved in it.

A very legitimate social agency, which had a high reputation with both the Ministry of Community and Social Services and the community, opened up a new group home or group homes over in Mr. Di Santo's area. The people there formed the North York protective association, whatever it is, had a big protest meeting, and made a lot of fuss.

If there was a vehicle to appeal the issuing of the licence--because that group did what it could to try to talk to the community; the community was just not interested. "No group

home, period." They just did not want them. If there was this kind of vehicle, then these legitimate group homes--I think there was more than one--would have been dragged through all kinds of processes, and their program interrupted.

I agree with you that there should be an attempt at community acceptance, and that when the community does not accept it there should not be this community veto, this community being able to--as it can in rezoning, which is legitimate--prevent a legitimate group home from going into a community. That is really the case in Downsview, in Mr. Di Santo's area, and a little bit in my area, where the people had what you want to happen. I think that would have been a much worse scenario than the possibility of one operator moving in and not getting community acceptance.

If it is a legitimate group home--and I have the feeling the Ministry of Community and Social Services or the Ministry of Health, in some cases, does a very thorough investigation before allowing a group home. Once that has been done, I think it is legitimate that the person be able to operate. He should not have to go through all kinds of legal wrangling because certain people have certain prejudices against group homes which, in my feeling, are illegitimate.

Mr. Breaugh: That is not quite the problem I am trying to get at.

Mr. Rotenberg: But if you get at the problem you are getting at, you are going to cause that problem.

Mr. Breaugh: No. The difficulty I am having is--I admit it; I am being hoisted with my own petard, and most of the people who are involved in this dispute are being hoisted with their own petard. We are very much proponents of group homes and we support that concept very strongly. It has been no problem at all, because we have all agreed on a procedure, on how to do this.

The difficulty is that when the private sector moves in, some of these people very often say, "We do not agree with that, and we do not have to," and it is true, they do not. It is true that they have a legal right to operate there. However, the problem really comes about when the group home begins to function.

If it is to be a group home operating within a community, the first essential ingredient is that the community accept it, or it cannot function the way a group home has to function, and that is the problem. We do not have the mechanism to even hold a hearing on this. That is really the problem.

Mr. Rotenberg: Actually, there are worse problems. If you have this kind of mandatory public hearing, and you know about that meeting up in Odoardo's riding--

Mr. Breaugh: Just let me finish for a minute, and I think I will show you the other side of this.

Mr. Rotenberg: I am sorry.

Mr. Breaugh: To extrapolate this one step further, the difficulty is that, having won acceptance of group homes in a community as one example, and it is substantial, and having got them set up, we are now in danger of putting those community-based group homes out of business because the private sector is moving in. There is a catch 22 here, where most of us would argue, "We do not want a hearing that would block the group home." I am not even much of an advocate of municipal bylaws on it, but I am becoming convinced that there had better be something because the community-based group homes that I have supported for years are now being threatened by the private sector moving in.

Mr. Rotenberg: How are they threatened?

Mr. Cureatz: I just want to add to that and take it one step further, being slightly involved over the last four or five months with it. Not only are the community group homes threatened with respect to the facilities they are able to provide, but it seems to me they are being threatened because there is a focus on them and where before the community accepted them because various community groups were involved with them, suddenly when there is an input of the private group homes, there is a confrontation that focuses on group homes. Those other community group homes have the attention on them, when before they seemed to work in the community now they are being centred out. There is a hesitancy and the neighbours around the group home say: "Gee, are they that bad? What is going on?"

Mr. Breaugh: The threat to the community-based group homes is that where they provided care on roughly a \$20-a-day cost, they are having their reputations ruined and being bumped out of business from two points of view: they are running shoestring operations and the Cadillac operation arrives. It costs more money to the ministry but that seems to be of little concern. The placement is the real problem and the next stage in this would be the placement problem. If we are going to place only so many kids in these community group homes and the private sector seems to have a leg up on the system, my community-based group homes will have a licence to operate but they will not have any kids placed in their care. That already is a problem.

Mr. Rotenberg: We have far fewer group home places in Metro than there are people who are eligible to go into them. But with respect, if there is a problem--and there may be--I do not think it is a problem for this board, but it is a problem for the Ministry of Community and Social Services, or the Ministry of Health who license the group homes. Maybe there has to be something in the licensing procedure.

I would be very hesitant to set up a situation where the licence itself, once it is issued by a ministry, can be appealed by a third party--this kind of a board--because you know what is going to happen. As I say, certainly from my experience in Metro, every licence would be appealed and every legitimate group home would be dragged through the whole procedure, with the focus on the illegitimate concerns of group homes. I think that would have me more concerned.

Mr. Breaugh: No. That is not the problem at all.

Mr. Rotenberg: That is what I am saying. The problem is probably not with this board, but the problem is ministry regulations.

Mr. Breaugh: No. The difficulty is we have something called a Children's Services Review Board. To people who take things at face value, one would assume that if you have a problem with any of the children's services under any of these acts, there is a review board to which you can go, and the fact is you cannot. It is going to get compounded by that big piece of legislation, if it actually goes anywhere, because there will be the long-awaited amalgamation of children's services under one big piece of legislation.

I am really trying to determine that if we have problems now, what is going to happen when this larger piece of legislation takes effect. It seems to me this board is going to have to have its mandate expanded substantially. Instead of hearing three or four cases a year, you may be somewhat busier than that. I am sure the board is aware of the potential that is there. Are we doing very much to get ready for it?

Mr. Ford: First, with respect to an increase in hearings, the board really has been very much underutilized with respect to the strength of the numbers of members that we have. In fact, there are substantial numbers of members of the board who have never been involved in any hearing at all. With a relatively small number of hearings and most of them centred in Toronto, it has never appeared to me, as chairman, sensible to bring someone from Thunder Bay to Toronto to sit on a hearing for an indeterminate period, which may be one day or three days, and it is usually difficult to determine how long. Sometimes there are blocks of time in between days of hearings because of people's schedules.

11 a.m.

So we have not utilized all the members of the board. In fact, there are probably only four or five members of the board who have ever sat on a hearing at this stage. That has been a matter of some concern to me. On the other hand, I have never been sure it was very cost-effective to have larger numbers of the board sitting on a hearing. The length of time it takes and the complication of arriving at a decision seems to grow exponentially with each additional member on a panel. I cannot think of any case where we have operated with more than three members of the board in any particular hearing.

If the mandate of the board were to be expanded so that it was to inquire into the relative merits of three different kinds of group homes--if I may, I will identify them for you because I think there are three distinct kinds.

There is the community-based institutional group home with a broadly based community board that is operating as a social service agency. In effect, group homes may be the main function.

There are a number of them around the province. Basically the board never hears anything about them. Their standards are such that it would be very unusual for one to come before the board.

Second, there are private group home operators who operate a number of group homes with staffing that is not much different from that used by the community-based ones. The difference is they are there for the profit motive and they are not nonprofit corporations, as far as I know; they are merely private corporations.

There is a third category that is relatively new, but which I sense is going to be a growing force in the group home community, and that is the expanded foster home. It is technically described in the regulations as the "parent model group home." The operators operate one group home and they live in it with the kids as a family. They are basically expansions of the foster parent concept.

The foster parent concept provides for two foster placements, or perhaps three as a maximum, in a particular home. As soon as you go beyond that level a licence is required and it becomes a group home, but in effect it operates very much the same as a foster home, except that it is slightly larger. In many cases, the community might not be aware that such a group home was a group home.

Mr. Breaugh: I have one next door to me.

Mr. Ford: From the point of view of the board, provided that the service that is provided to the children placed in care is adequate, that kind of group home often provides a preferable answer to the more institutionalized multi-unit private corporation group home or the community-based group home, because of the parent role undertaken by the operators.

That is also the most risky from the ministry's point of view because that is where you find the untrained, unaccredited persons who have shown, through a foster parent operation, that they have skills. They wish to expand and take care of more children. In those cases, it is riskier and requires more supervision from the ministry, but often the results in terms of living conditions for the kids and their chances for rehabilitation are somewhat better because of the parent model relationship that is established.

What concerns me about an expanded role for the board is that if we get into the issue as to whether a licence should be granted, and there are hearings in advance of the operation of these things, we are going to be placed squarely on the issue of program: is the program proper? With due respect, in my view that is not something the board is currently equipped to answer in a large number of cases.

It is one thing to look at a program and have anecdotal evidence as to what has occurred. For example, if the children have been permitted to drink, if beer is regularly available or if there is a drug scene going on in the group home, such anecdotal

evidence can be accepted and we can say: "Yes, that is a bad way to run a group home. The government should not be licensing people to run a group home in that way," and the licence can be cancelled, conditions can be placed on it and so on.

It is a far different matter to get into the niceties of the skills of individual people: whether the people in group home A are better equipped as human beings to provide care for the kids in service than the people in home B. To my mind, how the board could react to that situation is almost a nightmare.

Mr. Breaugh: One little anomaly I found in looking at the board is that here is a board with the right name to handle a variety of problems, but it does not do that. It has well qualified people and lots of them to do the job, yet the restrictions on this board are such that it cannot do that job, it has a very limited field.

At the same time I have these burgeoning problems that did not exist, in my area anyway, two or three years ago. If we had a problem two years ago it was how quickly we could get the community-based groups together and how we could wangle contracts with various ministries to stabilize their economic prospects. It now has taken a different shape and form and we are running into problems. It is not a good answer to say that it is all signed, sealed and delivered, you cannot do anything about it.

The other aspect of it that disturbs me somewhat is that while my community-based groups have been struggling along for years trying to go hand-to-mouth, so to speak, if you get down to the mathematics of it and the private sector moves in and gets a contract for \$28 a day from the government for a lengthy period of time, it is much like the nursing home situation. Here is a guaranteed annual income for an operator with the government of Ontario. You cannot lose on this. All you have to do is get your mathematics correct.

If you front-end it with people with eminent qualifications and no one is really in the business of looking at the actual on-the-ground operation, you cannot lose there. This is a licence to print money. I am sure there are entrepreneurs sitting around thinking this is the way to go. You can grab a government contract, there are certainly lots of kids who need day care, group homes or whatever, so the market is certainly there.

Sitting next door to Toronto it has been clearly shown, as David said, that there are all kinds of kids who need care. The market is guaranteed and the province is going to guarantee your funding. All you have to do is get your mathematics correct, put together a nice package and you are in business for life. You cannot lose on this. Nobody can even cry foul on you.

Mr. McLean: Nobody can stop you.

Mr. Breaugh: Nobody can stop you. We are on the verge of a major problem and cannot seem even to get a handle on how we might resolve this. I am afraid that your board, whether you like it or not, is going to get thrown into this one in some way.

Mr. Charlton: Perhaps I can get in on this because there is an extension of the problem to which Mike has referred and many of us are looking for a vehicle to resolve it.

Mr. Rotenberg referred to the problems that occurred in Downsview or North York around the proposed group homes. A part of what is happening is that it has not been a problem in the past because, as Mike has said, to the largest extent you have had community-based group homes with community boards and/or this new thing that is evolving, the expansion of the foster home.

In the case of the community-based board, the community has always felt it had a vehicle for input. Because there is a community-based board, the community feels it has a vehicle for input into how that group home will operate, the size it will take up in a particular community, and so on and so forth.

11:10 a.m.

With the expansion or growth of the idea of a foster parent expanding into a group home, you have someone who has operated in that community in an acceptable fashion that people have been able to see. They have seen the kids who have gone through that foster parent's home and the way they have gone in one end and come out the other and so on.

The phenomenon that is occurring now and which we have to try to find a vehicle to resolve is this private sector company coming in over which the community feels it has no control once it has been licensed by the ministry.

They have no control over how big a facility is going to go in the middle of their block. They feel they have no control over how that facility will be operated, and they have no vehicle, as has been suggested here, through which to complain about the way the place operates if they are not satisfied once it is in place. Those are the kinds of things we have to try to look at to find some resolution.

If in the case of the Downsview-North York situation, for example, the community had felt it had a vehicle to have input in terms of what those facilities would be, how big they would be and how they would operate, I think the problem would have been quite different to the absolute out-and-out opposition that developed. That opposition developed simply on the basis that at every corner the concerns the community was raising were apparently being ignored. The answer was always no.

Those are the kinds of things we have to look at in finding a vehicle like your board, or some other board, through which a community can have a role to play in what is established, if it is going to be a facility that is not already under some kind of community control through a community board or something.

Mr. McLean: What you are saying, Brian, is that the community should have some input when a person decides to open a group home or whatever and the community knows about it.

Mr. Charlton: That is right.

Mr. Breaugh: The real difficulty is that the conditions under which they operate are private conditions. They are not publicly established. When you talk about what kind of programs you are going to run, nobody has really addressed themselves to that very well. A lot of people are trying to.

You talk about staff qualifications when, in my opinion anyway, nobody has really addressed themselves to that in a coherent way. It is all over the map. If they want to provide good staff, they can, but they can also take young people off the street who need a job and may have a whole lot of problems themselves and put them to work. There is not very much you can do about it.

In terms of quality of care, whether that is a group home or day care facility, and in terms of intentions, I have no qualms about going to bat for the community-based thing. That board consists usually of people I have known for a long time. They have established themselves in the community and are doing the best they can with the money they have.

With the private sector moving in there, I do not know these people from beans, and they can run the greatest program in the world or the lousiest in the world. I do not know who they are or whether they are making money or losing money or whatever. I have no control over that.

I am pleased to hear that the ministry audits those books, but I was not aware of that. I was aware that the ministry had the power to do that, but I was not aware it was actually doing that. Again, because that is not something that is a matter of public record, I had better hope the ministry never fails in its task. That takes a large article of faith on my part, which you might not get for a while.

Let me move to the second and perhaps most difficult thing that is ahead of you. When we do put the new Child and Family Services Act together and put it in operation, it seems to me, one way or the other, your board is going to be far more active than it is now. It is true, or at least I believe it to be true, that you are under-utilized as a board now. Do you think you are prepared for that onslaught?

The parallel I would draw is the Young Offenders Act. We all thought this was a great idea and we are all concerned that nobody is doing anything to get ready for this great idea. There were long arguments at different levels of government about who is going to pay for all this care and what facilities we have.

It seems to me the same thing will be true with this Child and Family Services Act when it comes into being. We will once again encounter that problem of not being ready to deal with new problems that are generated. We have the same problem with your board and this new act.

Mr. Ford: I suppose the answer has to be qualified on

the degree to which the requests for hearings escalate. The board as constituted at present can quite conveniently hear two or three times as many appeals in the course of a year as it does now, with relatively modest changes in the structure of the board.

That is to say, at the moment there is only one vice-chairman. We are required to have either the chairman or a vice-chairman in charge of each hearing. At the moment there are only two who can be in charge of hearings, Dr. Bellamy and I. We might need one or two extra vice-chairmen in order to spread the work load around.

In my view, the cases we have had up to now have really revolved within a very small geographic circle from where we are now sitting. There is only one case in the past five or six years in which the board has gone out of town. In that case we went to Belleville because most of the witnesses were juveniles in that community and, rather than bring them all to Toronto, it seemed easier for us to go to Belleville to hear the case.

Basically all the hearings are in Toronto, whereas the majority of the board are resident outside the Toronto area, and in some cases at quite a distance. The board has been structured to have representation from all over the province, but many of the members of the board live quite far from Toronto and we need more members in Toronto if there is going to be a heavy increase in hearings. I assume on the basis of past experience that the bulk of the problems will arise within 40 or 50 miles of here.

Mr. Breaugh: One of the problems I have in reviewing the work of the board is that it appears to me to be another of those instances where there is a review board if you live in Toronto but in the rest of Ontario you are dealing with the ministry.

Mr. Ford: I would disagree with that. There have been cases outside the Toronto area. Most of those hearings have been held in Toronto simply because, for example, if the area was Milton, it was easier for them to come to Toronto than for the board to move to Milton. They were more or less here anyway; their counsel happened to be a Toronto counsel, so the question was, do we move everybody out to that community or do we hold the hearing here?

In the case of the one in Belleville it was obvious that it was easier for the board to move to Belleville. We do not have any problem in holding hearings in any community, provided we can find a room to hold them in.

Mr. Breaugh: The difficulty I have noticed with a number of agencies is that it is almost as if there are several different sets of rules. In this case I have noted that if you are in the vicinity of Toronto, there is this Children's Services Review Board; people seem to know about it and seem to use it. When you get out into other areas of Ontario, though, people do not seem to be as aware that such an animal exists; they seem to accept the notion that if there is a problem, you will deal with the Ministry of Community and Social Services and it will be resolved in-house.

I have seen this with a number of other agencies, and it seems to be true, at least on the surface, with your board. For example, have you ever had a hearing in northern Ontario?

Mr. Ford: No. There has never been an appeal from northern Ontario.

Mr. Breaugh: I find that strange.

Mr. Mancini: Essex county?

Mr. Ford: There has never been an appeal from Essex county.

Interjection.

Mr. Ford: We would love to come.

Interjections.

Mr. Ford: With regard to any case in which an appeal to the board might arise, I should be quite clear that wherever the ministry proposes to refuse to issue a licence, to cancel a licence or to impose conditions on a licence, it is stated as a proposal that is effective only after the appeal rights of the licensee or applicant have been exhausted. So the methodology is that the ministry proposes to refuse to issue a licence or to cancel a licence.

11:20 a.m.

Along with that goes quite a specific set of instructions on how an appeal to this board is mounted, so there is no confusion on the part of the licensee or applicant, or there should be none, concerning his rights in the circumstance. If he feels he is not being appropriately dealt with, there is no problem in his approaching the board. It is a simple procedure.

Mr. Breaugh: Yes. I am not particularly interested in pointing the finger at who is at fault here, but I am concerned that when we have review boards of this nature, and I look at their track record, I find they have never had an appeal from northern Ontario, I have to think that something is wrong here.

Is someone telling me there is no problem with children's services in northern Ontario? I know that not to be true. Why has there never been an appeal?

I am aware that all of the review boards we have ever seen always meticulously send out information saying, "Here is the review procedure and all of that," and yet there is this disturbing pattern that in parts of Ontario the review board seems not to function and no one seems to have a good reason.

All of the other agencies or review boards of your kind are always pretty meticulous about informing people of their rights, "This is how you do it," but no one seems to exercise his rights once you get north of the French River. I am trying to figure out why that is.

Mr. Ford: I am afraid I do not have an explanation for it.

Mr. Breaugh: Let me just finish with one other problem I have. There is no really polite way to do this so I will not bother.

There seems to be, if you like, a kind of incestuous relationship around the Ministry of Community and Social Services, maybe because it is so big and it tries to do so many things, maybe because there is a lot of different levels of government involved in it from provincial scale operating with some federal money and municipal operations, the social service ministries and all of that, but the bottom line really is, you play the game by the rules that are set out. The rules are really a private set of rules. I have some difficulty with it.

As a practising politician, when someone comes to me with a problem, I like to know the rules. With children's services, it is sometimes tough to figure that out. It is tough to figure out who said no to an application to provide certain kinds of services. It is not a very open system and it is difficult to explain to people when they come to me with a complaint about the kind of day care their kid gets. It is kind of tough to sort that out.

We just went through a situation where a lot of kids from Oshawa were placed in group homes in Haliburton. A lot of my group homes in Oshawa had kids who come from Toronto. A mother comes to me and asks, "Why can my kid not get placed in a group home in Oshawa?" I cannot even figure out of whom to ask that question, quite frankly. From the parents' point of view, they do not understand it at all. This makes no sense to them and it makes no sense to me.

We seem to have no vehicle to sort this out. I know I have group homes that are just dying for Ministry of Community and Social Services contracts to provide services and they cannot seem to get them.

The system is one which is difficult to understand. I guess that would be a polite way to put it. Do you think that perhaps it would be a good thing to attempt to try to sort this system out a little bit better, maybe pull it apart? I know that the new act attempts to do that, but I sense a major problem in place there.

Mr. Ford: I am afraid that is a little bit beyond the scope of any research that I, as an individual, have done or anything the board has considered. I am not really in much of a position to make suggestions as to how the ministry might relate better to the community.

I know that there are difficulties in placements. Often there are difficulties because the group homes, if dealing with a child with serious problems, can only deal with certain kinds of problems and they simply cannot accept a child who exhibits difficulties beyond the capability of the particular group home. Most of the private operators are basically dealing with what I would call a pretty average kid in terms of kids needing services.

In my view, most of the private homes are not really equipped to deal with the serious problems. It is one of the kinds of correspondence I sometimes get from ordinary citizens who are struggling with the placement of a child who has multiple problems. The child might be blind, deaf, epileptic and mentally retarded, and they are struggling to find a place to care for that child.

That is something the board is not equipped to deal with at the moment. It is not our mandate. We simply pass that correspondence back to the ministry with a suggestion that it try to find some placement for the child. There are all kinds of difficult children for whom adequate facilities do not exist because of the uniqueness of the problems the children have.

Mr. Breaugh: In conclusion, I am becoming increasingly frustrated with this process. I have increasingly sat in my office and listened to operators, parents and sometimes kids, saying, "I have a problem, and the reason is this person from the Ministry of Community and Social Services, or social services or whatever." The only way it seems possible to resolve that problem is to go back to that same person.

If that person decides to be nice that day, the problem gets resolved, but if he or she decides to stick to his or her guns, the problem gets worse, not better. I seem to be having that phenomenon more often, and I am increasingly frustrated that I cannot find a way to straighten out these problems.

It is almost as if, if you have a problem with the Ministry of Community and Social Services, or social services or whatever, it is really tough. If people have a difficulty and want to raise hell, quite frankly, they probably will not get it resolved. There is not an appeal system or a way to take these problems apart or put them back together again. You turn around to the same people who caused the problem initially and expect them to reverse themselves. Of course, they probably think they were right in doing as they did in the first place, so they are unlikely to change their minds. I am frustrated with this process and this system.

I was happy we would be able to review your board because on the surface it appeared to have the potential to resolve some of these problems. The difficulty is that it seems to be underutilized.

Mr. Ford: Also, it has just occurred to me, one must be careful in structuring the responsibilities and mandates of boards in order not to create a whole group of Ombudsmanlike boards. If there is to be an Ombudsman service which is to mean anything, one does not want all kinds of other organizations crossing the same territory and mandate unnecessarily. That is both inefficient and likely to give rise to even larger frustrations in the end than we now have.

Mr. Rotenberg: Let me ask a question. Would some of Mr. Breaugh's problems be solved by the social assistance review board, which is similar to but different from yours? They handle a

different section of some of the same problems. I do not know if you are aware of that board. Can they handle some of the frustrations Mr. Breaugh has, would you know?

Mr. Ford: No, I do not think so.

Mr. Breaugh: Let me give you one example, and then I will leave you alone. A couple of weeks ago I had a young woman, a single-parent family again, on welfare. She had a chance to get a job on Monday morning. All that had to happen was day care had to be provided. The day care space was available. What was not available was the subsidy. I could not find a way to get that mother off welfare, back into the work force and the child into a decent day care facility. There appeared to be no way to do that.

If we all sat around for five or six weeks and waited for the social services budget to loosen up its little clique in its turn, perhaps that would happen. There was no vehicle to resolve that. So the mother stayed on welfare, the kid stayed at home and the day care space stayed unoccupied. Everybody seemed to feel this was okay, the way to deal with this problem. It frustrates me no end when we know what to do and we lack the ability to do it.

Mr. Epp: Mr. Ford, with respect to the board, how many members are on it?

Mr. Ford: The current number is 10.

Mr. Epp: That is the full complement?

Mr. Ford: No, it could be 11. It could have one more member.

11:30 a.m.

Mr. Epp: How are these people placed on the board? What kind of consultative process has gone into it? How are you consulted on it?

Mr. Ford: I am not consulted.

Mr. Epp: What kind of credentials do these people need to have to be members of your board? What kind of qualifications?

Mr. Ford: Basically, the members of the board are people who have some experience with children's services in one form or another and are just members of the community. There are two members of the board who are academically qualified. Dr. Bellamy is one. Dr. Cruz, from Windsor, is the other. There is one lawyer. I am an accountant. The rest are members of the community.

Mr. Epp: You are from Toronto?

Mr. Ford: I am from Toronto.

Mr. Epp: What kind of geographical representation do you have?

Mr. Ford: The representation comes from around the province. There are members from Thunder Bay, northern Ontario, the Galt area, Hamilton area, down by Belleville, Windsor, Kingston and about three from Toronto.

Mr. Epp: Who makes those appointments?

Mr. Ford: They are made by order in council.

Mr. Epp: Who does the spadework? What kind of work is done to check the backgrounds of these people to see that they are qualified?

Mr. Ford: I am not aware.

Mr. Epp: You are not interested?

Mr. Ford: "Not interested" is not the way I would express it, but it has always been that I worked with whatever board members were on the panel. Some of them have been around for a good long time.

Mr. Breaugh: In some years of hearings no one has been able to answer that question.

Mr. Epp: I am chairman of a board myself, a social service agency. I like to know who is on the board and I have a direct input as to who is there, making sure they are qualified and so forth. I am surprised you are not being consulted and that you are not interested to the point of finding out how these people are appointed to the board.

Mr. Watson: I do not think that is a very fair question.

Mr. Epp: Pardon me. I will withdraw the aspect of unfairness from my question to the chairman of the board. I am just interested in finding out how these people are appointed and seeing what kind of criteria you have. I am sorry you are so sensitive about this.

Mr. McNeil: Why do you not ask your friends in Ottawa? They will be able to tell you.

Mr. Epp: Mr. Mulroney?

Mr. Breaugh: That phone has been disconnected.

Mr. Epp: I notice my local member is now a Secretary of State. I will have to ask him how he got that.

Obviously you have copies of the guidelines under which you operate. How are they drafted?

Mr. Ford: If you are speaking of the--

Mr. Epp: I am speaking of the guidelines under which the appeal process operates.

Mr. Ford: Apart from the legislative terms which set out the responsibilities of the board and basically the way it operates, there is a memorandum of understanding between the ministry and the board. It was probably included in the data you have. That memorandum is relatively short and speaks to the independence of the board rather than anything else.

Mr. Epp: It is fairly short, you say. Does that mean you have a considerable amount of leeway in how it is interpreted?

Mr. Ford: My understanding and the condition on which I accepted the chairmanship of the board was that the board would be absolutely independent of the ministry in its day-to-day activities. I have met Mr. Drea and Mr. Norton, but apart from that I have no contact at all with the ministry in terms of what is going on in the ministry or any comments to me about the way the board is operated.

Mr. Epp: Mr. Rotenberg would be interested in this. I know he is listening very attentively. Does the board meet periodically to evaluate its position, to evaluate the regulations under which it operates and to provide recommendations to the ministry as to how it can be more effective?

Mr. Ford: No, it does not.

Mr. Epp: You have never done that. Have you ever met with the ministry staff? Have they inquired as to its effectiveness and whether it can be more effective? How long have you been a member of the board? Perhaps I am asking an unfair question.

Mr. Ford: I think I have been chairman for five years.

Mr. Epp: For how many years have you been a member?

Mr. Ford: Five years.

Mr. Epp: You became chairman when you were appointed?

Mr. Ford: Yes. In answer to that question, when the Child Welfare Act and the Children's Residential Services Act were revised approximately five years ago, several review boards were compressed into one. At that time, the present Children's Services Review Board was formed. It had not existed as such before. There had been boards for day nurseries and residential services--two or three different boards. They were all amalgamated into the one board.

At that time all the members were brought for a meeting in Toronto so that all of them who were new could have some kind of indoctrination as to what the board was all about. That is the only meeting of the full board that has occurred.

Mr. Epp: You are anticipating a question I had. What orientation, indoctrination or training do you give to new board members when they are first appointed?

Mr. Ford: The indoctrination of a board member occurs at the time he gets involved in a hearing. Since our responsibilities are, if you like, very rifled--we have a very specific responsibility--the major thing a new board member has to learn is how a hearing is conducted and what the board members do in the course of a hearing.

There are no other duties for them to perform. I guess on-the-job training would be a description. They are all citizens. They are not expected to have legal talents or anything of that sort. They are intended to bring their judgement to bear on the evidence as they see it.

Mr. Epp: Have you ever had any resignations of members from the board because they felt the board was not effective or because of frustrations they had, or something of that nature?

Mr. Ford: Not that I am aware of.

Mr. Epp: For what term are these people appointed?

Mr. Ford: Three years.

Mr. Epp: Three years; then it is renewed. Is there a maximum?

Mr. Ford: Not that I am aware of.

Mr. Epp: With some agencies or organizations you can only serve three terms or something in order to get new people on the board.

Mr. Ford: I would have no objection to that occurring. That might be a good idea, as a matter of fact, as long as there is an element of continuity at the chairman and vice-chairman level so there are people to chair a hearing who have been involved in hearings. That is my major concern.

Mr. Epp: I was a member of a social agency myself. One of the problems is you get a lot of people who do not want to resign. They are nice people and nobody wants to ask them to resign so they stay, lose interest and so forth.

We set a maximum of two terms. You can always go off and then come back again if you have been out for a term. If a person is really good, you may want him back. It gives you a chance, without anyone taking things personally, to keep regenerating new interest and new blood on the board. It is something we should look at with all these agencies, boards and commissions in the province.

Do you get a lot of correspondence from MPPs, local members?

Mr. Ford: I do not think I have ever had a letter from an MPP.

11:40 a.m.

Mr. Epp: There is never any reason, really. I have not sent you any and I have been here for seven years. I just wondered about that.

Just to clarify, your board has not made any recommendations to the ministry staff, certainly not during your term there, so you do not know whether those recommendations are followed by the ministry or not. Do you have recommendations to make on how your board could become more effective?

Mr. Ford: Within the terms of the mandate under which the board operates, I am not sure I do.

Mr. Epp: What about beyond that mandate?

Mr. Ford: There have been occasions when we have had some concern as a result of a hearing that some different procedure within the ministry might have given rise to a set of circumstances in which that hearing would not have been necessary. In those cases, it has been our habit to convey that information by letter to the legal services branch of the ministry, to which we relate.

Mr. Epp: Maybe it is the responsibility of the ministry to find out what kind of recommendations you have rather than your responsibility to initiate them, but I quite honestly would not think it was out of place for you to initiate them. You are interested in working within the mandate; when you go beyond the mandate they can fault you, so you are really not interested in going beyond it. You do not want anybody to find fault with you, and I do not blame you; I would not, either.

The thing is that you are in the best position to know whether you are meeting the needs of the community in your general area of responsibility, and if nobody inquires concerning how you see your responsibility or whether it should be expanded, then I am not sure the community is best served by that inability--maybe "inability" is too strong a word--by that lack of opportunity to communicate with the government all the time.

Mr. Ford: One of the problems you will have as a board is that the membership of the board clearly cannot be drawn from among people who are currently involved in the kinds of activities the board is hearing appeals on; that is to say, I would be reluctant to have a person who is a group home operator as a member of the board.

Mr. Epp: Conflict of interest.

Mr. Ford: I would also be very reluctant to have a person who is currently serving as a director of a community-based board that is operating in the areas in which we are hearing appeals, simply because he would bring to it his own set of biases concerning what he saw going on in his particular community, and that might not give the best results for the applicant in the case.

Dr. Bellamy is actively involved in that he is at the school of social work at the University of Toronto, so in a sense he is

academically involved in the thing; Dr. Cruz is involved in a similar way at the University of Windsor. Apart from those two members of the board, nobody else, as far as I am aware, is actively working in community affairs, but they all have worked in community affairs in the past and they are concerned citizens in that sense. That really, in my view, is the optimum kind of person to have sitting on the board, because we are trying to take an independent look at particular circumstances.

It would be very difficult for us to generalize from the appeals we hear to make recommendations to the ministry on how it should operate its overall program, because we are hearing the oddball, strange situation in which troubles have arisen; we are not hearing anything about all the cases in which things are going right.

Because a limited number of appeals come to us, I would find it very dangerous to extrapolate from those with broad recommendations to the ministry on how it should operate with respect to licensing, which is, if you like, our mandate. I may have private views, but I am not sure the board would necessarily share my private views.

Mr. Epp: Except it would be helpful if the board met periodically and made recommendations as to how your role could be made more effective--expand it, narrow it, whatever the case might be.

Mr. Ford: I have given consideration to the thought of bringing all the board together for a day seminar at some point. My problem has been that I am very busy in my day-to-day work, which is not being chairman of this board. There are enough days taken up with hearings of one sort or another, that I am kind of reluctant to devote a whole bunch of days more to running a seminar when I am not sure that the payoff either to me or to the people of Ontario is all that clear.

Mr. Epp: Let me just get into another area very quickly. What is the average length of your hearings?

Mr. Ford: Probably two or three days.

Mr. Epp: Are the people at the hearings usually represented by legal counsel?

Mr. Ford: I can think of only one case in the five years where there was not counsel representing the applicant.

Mr. Epp: So in 99 per cent of cases, there usually is. Are records kept of those hearings?

Mr. Ford: Yes. There is a court reporter.

Mr. Epp: Are those hearings open?

Mr. Ford: The hearings are open at the discretion of the board.

Mr. Epp: What would your estimate be as to the percentage of the ones that are closed?

Mr. Ford: I cannot recall ever having closed a hearing, apart from the exclusion of witnesses.

Mr. Epp: Until they have made their presentations or--

Mr. Ford: Yes. I may also say I am not aware of any case where there has been any vast public interest in the hearing, and usually the only people in the room are the participants and potential witnesses and so on.

Mr. Epp: Your problem is probably not with getting too many people interested, but in having too few people interested; you probably would not mind seeing some of the public come out some time and become interested in your activities. You would probably have a heart attack from the surprise.

Mr. Ford: I suppose so. Frankly, as a citizen, I am not all that interested in having a Grange commission type hearing where the press is around and there is daily news. It smacks to me of something that has gone very badly wrong when that happens.

Mr. McLean: Your hearings would be very personal, would they not, to the people involved?

Mr. Ford: Yes, they would. As I say, we have never excluded anybody, basically because no one has ever bothered to come, but there is the likelihood of the revelation of some quite personal information and I would have to give consideration to an application by either counsel that people be excluded during times when testimony is revolving around very personal things with the witnesses, particularly juveniles.

Mr. Epp: The basis on which people would be excluded would generally follow a recommendation or request by one of the counsel or one of the parties?

Mr. Ford: Yes.

Mr. Epp: You probably would not make that on your own initiative?

Mr. Ford: No.

Mr. Epp: Thank you very much, Mr. Ford. That is all for now, Mr. Chairman.

Mr. Watson: You mentioned licensing of adoption agencies. Have you had any appeals with licensing of adoption?

11:50 a.m.

Mr. Ford: Yes. There have been two or three. The first appeal was an appeal against a refusal on the part of the ministry to issue a continuing licence to a private agency that wished to operate as an adoption agency, as opposed to the single-incident

licence usually granted to a lawyer.

In that particular case, the board agreed with the ministry that it was inappropriate for the agency to have an adoption licence on the grounds that it did not have qualified staff.

Mr. Watson: Okay. You have touched on the point I wanted to pursue: the present rules in force regarding the fact that, to be an agent for adoption, you--I do not know the exact number, but one a year or something of that nature--

Mr. Ford: I think it is two a year.

Mr. Watson: Two a year--a very minimal amount, anyway, and it is usually the lawyer who plays that role.

Mr. Ford: Yes.

Mr. Watson: In those circumstances, would an individual come before you in that case? Would the ministry perhaps turn down an individual's appeal to be an agent? Would it get that small, or is it always in terms of a bigger agency?

Mr. Ford: No. There have been two or three appeals by applicants for an adoption licence where they have come before the board complaining about the denial of a licence. In those circumstances, the denial--

Mr. Watson: This is individual, now.

Mr. Ford: This would be an individual lawyer appealing against the refusal of the minister to issue him or her a licence with respect to a particular adoption.

The ministry would refuse the licence because they would disagree with the adoption placement, not because there is anything particularly wrong with the applicant for the licence, it is rather a case of where the child is going to go. So, our decision in that case is whether the prospective adoptive parents to be covered by that particular licence are indeed appropriate adoptive parents.

Mr. Watson: Okay. That leads me to where I want to go next. You consider that within the scope of your board because, as you have said, the issue of whether or not the particular lawyer is suitable to have a licence for an adoption procedure is really not the question.

Mr. Ford: It is not the question.

Mr. Watson: That is not the issue. The issue is something else beyond that.

Mr. Ford: Yes.

Mr. Watson: Does your mandate allow you to go beyond that?

Mr. Ford: Yes, it does. We are also an agency or a board of review in the case of an adoption placement proposed by a person with a multi-adoption licence, where the prospective adoptive parents have been rejected by the ministry.

Mr. Watson: So that, for example, in an unusual situation, a children's aid society might propose to place a child with a particular set of adoptive parents and the ministry would, for some reason or another, come to the conclusion that it was not an appropriate placement. The parent would then be the person who would have the right to appeal.

Mr. Ford: Right.

Mr. Watson: I understand that part. What if the children's aid society decided that a parent was not appropriate?

Mr. Ford: That, I believe, does not come before us. The only case where we would hear an appeal would be where the ministry was the agency which rejected the adoption.

Mr. Watson: Do you not see a fine line there in terms of your duties? If I am a parent who wants to adopt a child, and the ministry says--even though the children's aid society, private adoption, or whatever it is, agrees--"No, you cannot adopt," then I have an appeal to your board.

Mr. Ford: Yes.

Mr. Watson: However, if the children's aid society decides that I am not a suitable parent, then I do not have an appeal.

From my standpoint as a parent, what is the difference? Should I, as a parent, not have the right? I guess we are really back into the group home thing, only in a different way.

Mr. Ford: I guess the argument could go both ways.

First of all, it would be difficult for the ministry or for the government to give people a right of appeal to our particular board from something that was not a ministry-originated event. That is to say, where the ministry was not involved in the activity, can the ministry enact--say if Eaton's will not sell you something or if the children's aid society will not do something or some organization will not do something, can you have an automatic right of appeal to a board such as ours? That is a question to which I do not know the constitutional answer.

Mr. Watson: Forget about the constitutionality of things for a minute. If it is appropriate for you to hear why a parent cannot adopt from a ministry point of view, would it not be appropriate for you to hear why a parent cannot adopt from a children's aid society point of view? Could you not carry out the function if it were designated that you so do?

Mr. Ford: Yes, we could. We are just as capable of dealing with evidence from a children's aid society, which we are

likely to get in any event, as we are with--the (inaudible) test would seem to be no different--

Mr. Watson: From a practical point of view, we are dealing with children's aid societies. It is my understanding that the number of adoption agencies outside the children's aid societies in the province are one or two, very minimal.

Mr. Ford: Certainly very minimal. As far as I know, there have been very few multi-licences given, even though that is now provided for.

Mr. Watson: If the legislation so provided, you could do that?

Mr. Ford: Yes.

Mr. Watson: One of the things on which I would like your point of view is that, as a committee, one of our functions is to recommend changes in legislation. Is the legislation you have as a board too much? Is it about right? Is it lacking?

I would like to give you the opportunity to tell us if there are any changes you would like to see in the legislation under which you operate.

Mr. Ford: It is not a subject to which I have addressed a lot of thought. My offhand answer is no. We have never felt particularly restricted by the act in anything we were considering. I have never felt the act fenced us in and made it impossible for us to come to an agreement on the right answer in a circumstance.

Basically, once or twice counsel have tried to fence us in and we have rejected that. We have said our mandate permitted us to substitute our judgement for the judgement of the director and we have done so.

Mr. Watson: I appreciate that answer. Is there anything on the other side where you are saying, "My goodness, I am sitting here with all this power and I guess it is all right as long as I am in control, but I would hate to have it left there if somebody else was in control"? There is nothing with respect to overburdening power the other way.

Mr. Ford: No, because, again, the board is a reactive board; it does not originate things. We only react when an event has occurred that gives rise to an appeal. I would be very much more concerned about that if the board had quasi-legislative power. That would bother me some.

Mr. Watson: From my point of view, I am thinking about the appeal procedure with regard to adoptions. I know Mr. Breagh has been discussing these things that are now outside your mandate. Those are two things that have come up here this morning.

If things you have in place at present could be expanded and would fit the role, have you given thought to anything else that

is not now within your mandate but could be? I am thinking of appeals regarding adoptions and of appeals regarding group home establishments from a board point of view, or even your personal opinion as to areas we should be looking at.

12 noon

Mr. Ford: From my point of view, I am not sure the board as currently structured, and the personnel who have been placed on it, would necessarily be appropriate in taking on a regulatory function in deciding between agencies or directing placements into agencies, that sort of thing. If the board were to get into that sort of activity, then it would have to have a great deal of its own staff. Obviously, if we are going to second-guess private agencies, community-based agencies, the ministry, and so on, you are going to want to have reporting to you people you understand, who are doing research in the way you want it done.

To my mind, that gets us into setting up a very different kind of board. My concern with going very far down that route is that it puts us in a position of having another set of government, and I am not sure that this is necessarily an appropriate answer.

Mr. McLean: Mr. Chairman, the fellow who is quiet usually gets most of his questions answered, but I want to just take up on another one.

There has been a lot of discussion here this morning with regard to the group home issue. There seems to be a consensus; a lot of members feel there should be an avenue where there can be an appeal process to either establish, or, once it is established, to have an appeal that could enlighten the community as to what has taken place.

I would like your opinion. Do you feel there should be additional regulations established to allow for an appeal procedure with regard to group homes?

Mr. Ford: The question that has to be answered is what mandate would be given to the board with respect to those circumstances, and I can visualize a whole series of things which are of concern in the community.

One is the rate. That is a key factor for all of the agencies, both private and community-based, that are trying to provide services. That is a very real question. I think there might be some room for hearings on the issue of rates, and making sure that rates are appropriate within groups of competing group homes, if you like.

It seems to me it is wrong to have a group of essentially identical agencies, and to pay \$28 or \$30 to one, \$35 to another, and only \$22 to a third because that is what you can get away with. That does not make sense to me and it does not necessarily mean that you are going to provide the best care.

Mr. McLean: That is not really the question I want answered. Do you feel that the government should be enacting

legislation that would allow an appeal process for group homes?

Mr. Ford: It is a question of what the appeal is against. What are you appealing?

Mr. McLean: The establishment of a group home.

Mr. Ford: I would have some difficulty with an appeal process in which, for example, an independent operator who had established a group home in a community could appeal against the intrusion of a community-based home. I have an equal concern about the community-based home having the right of appeal against the establishment of another on the grounds that it might cut into revenues.

It seems to me we have so many kids in this province who need some kind of care there are not really enough places to put them. That is the problem, not a jurisdictional dispute between two competing agencies.

I guess I would have some difficulty with there being an intervention process against the licensing of someone on competitive grounds.

If a person was aware that the ministry was about to issue a licence to a group home operator, a day nursery operator, or whatever, and he or she felt that the person was not qualified, that there was something in that person's past or conduct that made him or her an inappropriate operator of a group home, it seems to me that then there may be grounds for intervention.

You always run into the problem of whether such an intervention is justified. What is the penalty for somebody who intervenes because they are a little different? There are enough kooks in society that I would be nervous about giving everybody the right to appeal against the issue of a licence.

Mr. McLean: Do you think a community should be involved in approving a group home?

Mr. Ford: Do I think the local community ought to be involved?

Mr. Cureatz: According to the guidelines, they are supposed to be anyway. It is a question of degree.

Mr. Ford: It seems to me that if the community is dead set against the licensing of a group home in a particular area, and the government forces the issuance of a licence and authorizes it to operate, the group home may be doomed to a short life because of community resistance.

Mr. McLean: As you said and somebody else said earlier, as it stands now you can get a licence to operate a group home. The community and the next-door neighbour do not know about it. Nobody knows about it. You said, Mr. Cureatz, that it is the procedure now that the community is involved. I do not understand that to be so. I understand that if you can get a licence--

Mr. Cureatz: Under the regulations and directions for group home procedures, it is suggested that a procedure be followed so that the community is involved and made aware of it. The question is, to what degree should the community be made aware? In some involvement I have had, my experience has been that there is a great deal of latitude in terms of involving the community and informing it that a group home is taking place. I think that is your concern and what you were saying.

Mr. McLean: Yes.

Mr. Cureatz: Perhaps we should spell it out a little more clearly, but no doubt the ministry's fear is that if we put it in strict procedural terms of going to each individual home and explaining what is happening, there will not be a group home anywhere. I do not think that should really be the problem. I think people should at least be made aware of what is taking place.

Mr. McLean: I agree.

Mr. Charlton: May I have a supplementary on this question of appeal and third party intervention? You now hear appeals. If the ministry grants a licence, but slaps on restrictions and conditions that the operator does not feel are acceptable, you would then hear an appeal from the operator.

Would you see any problem, for example, with hearing an appeal from a community or perhaps from a competitor that the conditions of the licence are not adequate as opposed to being too restrictive?

Mr. Ford: At the moment, unless the operator appeals, we would not hear anything. You are asking whether I think it would be useful if other people were entitled to appeal against the lack of--

Mr. Charlton: Certain conditions.

Mr. Ford: --certain conditions or about the numbers. In a perfect world, I would not have any hesitation about saying I think there ought to be that right. I do have a concern. The short answer is no, I do not have any objection to such an appeal process. That does not necessarily mean the board would substitute a different judgement in the circumstances, but presumably our judgement would be based on reasons that would be spelled out in the judgement.

Mr. McLean: You are talking about your board, not about the group homes.

Mr. Ford: I assume that we are talking about an appeal to this board.

Mr. McLean: I just wanted to make that clear, because he was following up on my question. Mine was with respect to group home licensing, but I think you are answering with regard to the jurisdiction under which you operate, which is not group homes.

Mr. Ford: Yes, we operate with group homes.

Mr. Charlton: What I was saying was that they now hear appeals on group homes if the operator appeals a decision of the ministry. What I am asking is, does he see any problem with extending that right of appeal on the licence to the community and/or a competitor where the competitor disagrees with the nature or conditions of a licence, which is basically an extension of the kinds of things you are hearing now?

Mr. Ford: To my mind there is something to be said for that. The mere fact that a hearing is held, people get an opportunity to express a point of view and a judgement is made that I would hope would stand up as a reasonable judgement in the circumstances I think means the community is well served by that process. It would do much to take some of the heat out of some of the circumstances.

Mr. Chairman: Am I correct that when a licence is revoked and an appeal is put in place, the operator continues to operate until the appeal is heard?

Mr. Ford: That depends on the circumstances. On occasion, the ministry has in effect closed down a group home by removing the children from it. While the licence is still valid, the group home ceases to exist as an operating entity because of the action of the ministry.

We have had such a case in the past year where the ministry moved in, having become aware of what it considered to be a crisis situation in the group home. It removed all the children from the group home and the licence continued on because there is no provision for it being cancelled until such time as the board makes its determination. That does not mean there would necessarily be children in care.

Mr. Chairman: You partially disarmed my comment. We reviewed the Animal Care Review Board last week. I note the appeals period is 10 days and a hearing must be held within 10 days of the institution of the appeal. The argument was that where animals had been removed--the same as children here--there was real expense and inconvenience with the animals.

Your appeal period is 90 days. One must assume therefore that the standard of care is one ninth as much with regard to children as with animals.

Mr. Ford: Again, I think the answer is simply that where the children are in danger, it is the responsibility of the ministry to remove them from that source of danger immediately. The continuation of the licence as such is irrelevant. Therefore, the children are probably adequately protected by the ministry intervention. The cancellation or otherwise of the licence is a subsequent event.

There will be all sorts of circumstances where there might be an intention to revoke the licence on grounds other than the adequacy of care, however. Depending on the funding of the

institution you could have this happen, not under Community and Social Services, but under the ministries of Health or Education. That is outside the purview of this board.

You could have a cancellation of licence for financial reasons, which would not require the children to be removed immediately. That could happen under the Children's Services Review Board in the event the agency was being operated in a financially reckless manner. The licence might be cancelled on those grounds. In that event, there would not be any reason for an immediate overnight removal of everybody from the home.

Mr. Charlton: Mr. Chairman, there is one essential difference between the two circumstances you raised in your question. It has been pointed out very well that in the case of the Animal Care Review Board, removing animals from an owner who continues to be liable for the care of those animals--that is, he can be charged for the cost of the care that is being provided by the new care-giver after the seizure of the animals--whereas in this case, if the ministry proposes to cancel the licence of a group home operator, for example, and it considers it an emergency situation and removes the children from that group home, the operator is no longer liable for the cost of care for those children. They are placed somewhere else, and the ministry and the family assume their ongoing responsibilities. The reason in the case of the Animal Care Review Board for the tout de suite hearing is this supposed liability of the owner of the animals for the cost of ongoing care.

Mr. Chairman: Thank you for appearing before us and in answering questions candidly.

The Niagara Falls Bridge Commission will appear at two o'clock this afternoon. We shall adjourn until then.

The committee recessed at 12:16 p.m.

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

AGENCIES, BOARDS AND COMMISSIONS:
NIAGARA FALLS BRIDGE COMMISSION

WEDNESDAY, SEPTEMBER 19, 1984

Afternoon sitting

(1/10/84)

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)

VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)

Breaugh, M. J. (Oshawa NDP)

Charlton, B. A. (Hamilton Mountain NDP)

Cureatz, S. L., (Durham East PC)

Edighoffer, H. A. (Perth L)

Epp, H. A. (Waterloo North L)

Mancini, R. (Essex South L)

McLean, A. K. (Simcoe East PC)

McNeil, R. K. (Elgin PC)

Rotenberg, D. (Wilson Heights PC)

Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

Witnesses:

From the Niagara Falls Bridge Commission:

Allan, J. N., Commissioner

Carton, G. R., Chairman

Haber, B., Consulting Engineer; with Hardesty and Hanover

Orr, G., American counsel to the commission

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Wednesday, September 19, 1984

The committee resumed at 2:16 p.m. in room 228.

AGENCIES, BOARDS AND COMMISSIONS:
(continued)

Mr. Chairman: Perhaps, Mr. Carton, you might identify the people at the table for Hansard and the committee, and then I think you have a brief opening statement.

NIAGARA FALLS BRIDGE COMMISSION

Mr. Carton: In the audience we have Gerry Nash and Jim Walsh, who are two of the Canadian commissioners, and of course, Jim Allan, the dean of everything. Then we have Bernie Haver, who is with Hardesty and Hanover, the consulting engineers. George Orr is the American counsel for the Niagara Falls Bridge Commission.

Mr. Chairman, I read the background paper by John Eichmanis and it was excellent. I asked George Orr, our counsel, to prepare a small epistle with perhaps a view to the practical side of the bridge commission. It will just take five minutes, but it will fill committee members in on the background of the commission.

After the collapse of the privately owned Honeymoon Bridge caused by the ice jam of 1938, the Congress of the United States created the Niagara Falls Bridge Commission for the purpose of building a replacement bridge to be financed by the public sale of revenue bonds. Although complementary legislation was introduced in the Canadian Parliament granting legal status to the commission in Canada, the bill failed to pass. However, from time to time acts of the Canadian and Ontario parliaments have been passed to authorize specific actions by the commission.

The commission exists by virtue of a joint resolution of the Houses of Congress of the United States. It is a federal nonprofit corporation, but is not an agency of the United States government.

Its corporate purposes are: (1) to construct, maintain and operate a bridge across the Niagara River at or near the cities of Niagara Falls, New York, and Niagara Falls, Ontario; (2) to purchase, reconstruct, maintain and operate existing bridges across the Niagara River at or north of the cities of Niagara Falls, all with the consent of the proper authorities of Canada; and (3) to issue bonds to provide for the cost of constructing or acquiring any such bridge payable solely from the revenues of such bridge.

The enabling acts provide further that:

1. Title to the bridges is to remain in the commission until the bonds are paid. Then it shall convey the same to the state of

New York and to the designated Canadian interests when and if the said state and Canadian interests agree to accept the same. Otherwise, the commission shall retain title and continue to operate the same.

2. The bridge properties are exempt from local taxation in the state of New York. As a private foreign corporation it enjoys no such exemption in Canada and by Ontario statute it does make, in lieu of tax, payments to the local Canadian municipalities.

3. The commission consists of eight members, four of which are appointed by the governor of the state of New York and four "by the proper authorities of Canada in Ontario," currently the Lieutenant Governor, with the advice of the executive council of Ontario.

Pursuant to this act and enabling legislation in Canada, the commission constructed the Rainbow Bridge, acquired the Whirlpool Rapids Bridge, acquired the old Lewiston and Queenston Bridge and replaced it with the present Lewiston-Queenston Bridge. The commission financed these activities by the issuance of revenue bonds, the last issue of which was \$20 million in 1960 and of which \$10,530,000 remains outstanding.

The commission is required to operate within the confines of the trust indenture pursuant to which the bonds were issued. The indenture provides:

One, an amortization schedule for the bonds, the payment of principal in 1984 to be a minimum of \$583,000. Two, a requirement of annual inspection of the bridges by qualified engineers. Three, for an annual budget out of current revenues to pay for operating and maintenance costs certified by the engineers. Four, that a total structure be maintained sufficient to meet the required bond principal and interest charges and the annual operating and maintenance budgets.

In practice, although the offices of the commission are located in Canada, the commission attempts to maintain an equal balance of Americans and Canadians on its payroll and inserts in all of its contracts for work done on the international spans a requirement that its contractors will do likewise.

Then there are certain exhibits that George attached, copies of which we will leave with you, Mr. Chairman.

I might add that I neglected to mention at the outset that our general manager and secretary-treasurer Don Misener is on sick leave and was unable to attend today.

Mr. Chairman: Thank you very much, Mr. Carton.

Mr. Breaugh: One of the things which struck us as being odd is we can trace, in the United States, the legislation that establishes the bridge and the authority under which members are appointed to the commission and all of that, but we could not find anything of a similar nature in Canada. Can you tell us what happened?

Mr. Carton: I cannot, but my understanding is there were four orders in council in 1938 that appointed the four commissions at that time. This has been carried on I guess. There were four original orders in council at that time.

Mr. Breaugh: As far as we can determine, there is no legal status of the bridge commission in Canada.

Mr. Carton: I do not know of any.

Mr. Orr: I do not know of any. There were various acts of parliament authorizing it to build the original bridge and do a few of the things that they have done subsequently, piecemeal legislation but nothing comparable to the United States legislation in Canada.

Mr. Breaugh: For practical purposes I guess somebody said, "The bridge is there; we get to appoint four people," and somebody did that. The question that remains though is what is the legal status of the commissioners, for example, who are appointed by order in council when there is no legislation saying, "Appoint these people."

Mr. Carton: I have just been handed--this is an appendix to John's, and I will quote: "At the same time as the private bill"--that is Bill 15--"was laid before the Parliament of Canada, Mr. McQuesten"--that is the Ontario member--"was seeking to have a similar piece of legislation passed by the state of New York creating an equivalent authority on the American side to build a bridge. However, the state legislature failed to pass such legislation."

"Meanwhile, in April 1938, the Ontario Legislature passed the Bridges Act, which required all bridges to be built in Ontario to be approved by the Lieutenant Governor in Council. This act was passed in order to prevent the International Railway Co."--and that was the predecessor--"from exercising its legal right to rebuild its collapsed bridge."

That does not really answer your question, Mr. Breaugh. With all due respect, I do not think it answers--

Mr. Haber: There is one thing which I read before we started, there was not an actual act passed because Bill 15 was continuously pulled back--

Mr. Breaugh: Yes, it never did receive--

Mr. Haber: In the last paragraph that was given to us this afternoon it is stated:

"It should perhaps be also noted that the list of agencies prepared by the Premier's office cites the Rainbow Bridge Act, 1941, as the apparent authority for the appointment of the four Canadian members of the Niagara Falls Bridge Commission. The relevant section of this act, however, makes reference to the US Congress joint resolution, rather than any Canadian legislation."

That is about as far as we were able to track it down.

Mr. Breaugh: So, as far as we can determine, this bridge is highly illegal and ought to be torn down immediately. That raises an interesting historical question and has the potential to raise some interesting legal quandaries. I take it there have not been any practical problems, however?

Mr. Carton: To my knowledge, no.

Mr. Breaugh: Would it be a useful exercise to attempt in some way to correct the situation, to put something in place? I am really thinking, when you got into litigation with someone who put a lawsuit against the bridge commission or whatever, you do not do a lot of the things that an agency normally would do in Canada. A lot of that is done on the American side.

Is there a need to try to legislate some corrective response to this?

Mr. Carton: I will let George answer that. My offhand answer would simply be that it would be very difficult to do anything right now because you are accountable to the bond holders and anything that would be done would have to be done with their consent, I imagine. Sometimes when you start to correct things you make them worse.

Mr. Allan: I believe around 1960 or so there was a federal legislative committee on international bridges that sought to have federal legislation passed to regularize the commission in Canada. As a prerequisite to that, they required complementary legislation to be enacted by the US Congress so it would be a joint effort.

We got as far as drafting both bills but the federal government would take no action to clarify the taxable status of the bridge in Canada. We were reluctant to go before the US Congress under those conditions to redraft our legislation because it might have left out our tax-free status in the US. So we resisted any further attempts to do that legislation. It was just dropped.

Mr. Breaugh: From a political point of view, I see some sense in trying to balance the books, make this legitimate, correct what appears to have been an unusual way of putting together a bridge commission. I am a little bit concerned that this may be an awkward process. I tend to think it would be. I am wondering if there is any real and useful purpose served by doing so. There are a few quaint things around in this world that seem to function all right as long as you leave them alone, and the bridge commission seems to be one of them.

Mr. Carton: That would be my answer.

Mr. Breaugh: In other words, there is no real legal problem. To all intents and purposes, you function in terms of litigation against you or anything you might want to do. For example, when you issue bonds and things like that, that is all

done in the United States. None of that is done in Canada.

Mr. Carton: The trustee is the Manufacturers and Traders Trust Co. in Buffalo, I believe.

Mr. Breaugh: For legal purposes of lawsuits, people falling, car accidents or whatever, the insurance in both countries has never experienced a problem because of its legal status. In the history of the bridge commission no one has ever attempted to cause difficulty.

Mr. Orr: And there is the fact that the offices of the commission and officers of the commission are available in Canada for service. We are present in Canada for purposes of jurisdiction of the Canadian courts.

2:30 p.m.

Mr. Breaugh: It has to be one of the most unusual arrangements in the history of mankind where the United States writes the act and pays the bills and we appoint four commissioners and have the offices.

Mr. Carton: Absolutely.

Mr. Breaugh: I tend to think we should not mess with that situation.

I know that in other areas of the province where there are international bridges we have from time to time run into some pretty awkward situations. Windsor, I think, has had some interesting problems with international bridges. In our research we came up with no such difficulties at all on this particular one.

Mr. Carton: There has been none to my knowledge. Mr. Orr or Mr. Allan might know of some, but there has been none to my knowledge.

Mr. Breaugh: It would appear that in this instance the bridge commission has served its function reasonably well and there have been no major problems in an operational sense since it began.

Mr. Orr: I do not know of any.

Mr. Carton: Mr. Breaugh, there has been--and it is unique--a spirit of co-operation. For example, the previous general manager and secretary-treasurer was American; the present one is Canadian. It is quid pro quo all the way through. It is the same with wages, etc. It is all balanced.

Mr. Breaugh: At some point the bridge will be paid for. Is anyone thinking in the long range about what might happen? For example, at some point, I suppose, some consideration is going to have to be given, if not to substantially repairing the bridge, then to replacing it. Is there any contemplation of how that might happen?

Mr. Orr: I presume it would be by the same method if it is financially feasible to finance it by bonds, to raise the funds that way.

Mr. Breaugh: Are there any indications that at some point the United States government might want to change its arrangements for funding and operating this bridge?

Mr. Orr: It has left us strictly alone.

Mr. Breaugh: I was interested that you are paid for and set up by the American government, yet you are not an agency of the government. Ontario has no legislation covering you, appoints four commissioners somehow by order in council and yet you are listed as an agency of Ontario. How did that happen?

Mr. Orr: The state of New York treats us the same way, and yet we are a federal corporation. Because the governor appoints four of the commissioners it lists us as a state commission.

Mr. Carton: There is a piece of legislation with the grant in lieu of taxes in 1981 in the Ontario Legislature. It is Bill 171 with respect to grant in lieu of taxes.

Mr. Breaugh: That is interesting. You now make a grant to the city of Niagara Falls.

Mr. Carton: And to Niagara-on-the-Lake.

Mr. Breaugh: And Niagara-on-the-Lake, a grant in lieu of taxes.

Mr. Carton: Right.

Mr. Breaugh: It is my understanding that you do not do that in the American Niagara Falls.

Mr. Carton: That is correct.

Mr. Breaugh: It seems to me that at some time someone in the American Niagara Falls is going to say, "If they do it at one end of this bridge, they ought to do it at the other."

Mr. Carton: I think the time is now.

Mr. Breaugh: That is actively being pursued?

Mr. Carton: There are some press comments. Maybe George can enlarge on this, but I understand that there is some agitation on the American side and it has received some press.

Mr. Orr: That is all it is at present: press and political agitation in local legislatures, as I call them, in the city of Niagara Falls, the county of Niagara and the town of Lewiston, largely through the mistaken idea that our grants in lieu of taxes in Canada are voluntary. We have been attempting to inform them that it is entirely involuntary in Canada.

Mr. Breagh: What is the amount?

Mr. Carton: It was \$70,000 in the first year and \$140,000 in the second. This year we expect it to be \$220,000.

Mr. Breagh: It is pretty unrealistic, though, to expect people on the American side to watch you pay \$200,000 a year to Canadian municipalities and sit back and say, "You do not deserve to get anything."

Mr. Orr: That is not all. The Canadian immigration and customs authorities rebuilt their facilities and occupy them rent free, and the federal United States customs and immigration pay us rent.

Mr. Carton: You see what a good deal the Canadian commissioners have really been doing the last while.

Mr. Breagh: I think this whole thing is illegal.

There is no pressure, I take it, on the part of the American government to take any action in this regard. For example, if state legislatures, or county or city legislatures on the American side wanted to get something like grants in lieu of taxes, I do not think they could do it, could they?

Mr. Orr: They would have to go to the federal government.

Mr. Breagh: They would have to get the federal government to do it. That is interesting. Maybe we will strike a treaty. They will clean up acid rain and we will pay them a grant in lieu of taxes.

Mr. Chairman: I have two things on my mind. First, as a lawyer, I would be hard pressed to know who to put on the writ as a defendant if my client wanted to sue the Niagara Falls Bridge Commission. It is not Her Majesty. It is not a Canadian corporation. It would be a nice conundrum to know who to serve in the Ontario courts on the Ontario side.

Second, if one of my clients had an accident somewhere between the middle of the bridge and one inch from Canadian soil, I do not think the Highway Traffic Act of Ontario would hold. It might be private property. I do not think it is a highway of Ontario there.

Mr. McNeil: (Inaudible) for the lawyers.

Mr. Chairman: Just think of all the kinds of defences.

Mr. McLean: For commissioners who are not getting paid, they have certainly chosen a good group of dedicated people who probably know a lot more than they are willing to tell us.

Mr. Epp: It is a loaded comment, is it not?

Mr. McLean: I was just getting around to that. How many times does the commission meet in a year?

Mr. Carton: Three times. As well, depending whether it is a year of negotiations with unions and that kind of matter, there may be once or twice on committees. We try to keep the meetings to a minimum.

Mr. McLean: Do you approve the budget of the commission?

Mr. Carton: Yes. The budget is prepared in accordance with a trust indenture, which is our bible and which sets up the various funds that have to be allocated and that kind of thing.

Mr. McLean: Who sets the salaries for the general manager, the secretary-treasurer and the staff?

Mr. Carton: The commission does. At the annual meeting each year, we go through the various pieces of business and at the end, he and the other staff will absent themselves and we will discuss the wages.

Mr. McLean: Are they paid in American or Canadian dollars?

Mr. Carton: It depends whether they are Canadian or American.

Mr. McLean: What kind of salary would the manager get?

Mr. Carton: It is \$51,000.

Mr. McLean: Plus expenses?

Mr. Carton: Some expenses, yes.

Mr. McNeil: Is that in Canadian funds?

Mr. Carton: Canadian funds.

Mr. McLean: By the year 2000, when the bonds come to maturity, what position do you feel the commission will be in to reduce the toll fees? What is your aim at that time? You may have to build another bridge or you may have to twin one.

Mr. Carton: That may happen. I guess I can be honest and say that I do not think this matter has been addressed by the commissioners yet, Mr. McLean. The year 2000 is around the corner, just as 1984 was some time away a few years ago.

At that time, as Mr. Orr said, the land would be ceded to the American authorities and the proper Canadian authorities, or the commission would carry on. I see no reason why the commission, if it continues to be successful, would not carry on.

Mr. McLean: Is the majority of your staff from Canada or the United States?

Mr. Carton: We try to keep it 50:50.

Mr. McLean: Whom is the audit done by?

2:40 p.m.

Mr. Carton: The auditor and the consulting engineers are named by the trustee for the bondholders in the trust indenture. They are specifically named: "It shall be Hardesty and Hanover. It shall be Deloitte Haskins and Sells" etc.

Mr. Rotenberg: Presuming this is the year 2000, and there is a tradition in Ontario and Canada that most things are toll-free while it is the tradition in the United States that most things have tolls--

Mr. Mancini: There are no free lunches.

Mr. Rotenberg: --when you get your bonds paid off, have you given any thought to whether these bridges might become toll-free? You still have to pay your salaries, which are probably a much smaller part of your budget. You will remember that when the Burlington Bay Skyway bonds were paid off, that became toll-free; it just became part of the Ministry of Transportation and Communications. Do you have any thought as to the future of tolls on those bridges?

Mr. Carton: We are not past the year 2000. We go year by year, and we had a raise in tolls a couple of years ago, but there is none imminent right now. If the grants in lieu of taxes keep going up and up and if the American side get grants in lieu of taxes and those go up, we will have to look at it again, but at present we are able to manage our budgets and keep the bridges in good repair.

Mr. Rotenberg: It would seem that if your bonds are paid off and you do not have to build a new bridge, your tolls should come down considerably, because all you have to do is break even.

Mr. Carton: It is 16 years away and we will probably have to twin a bridge and need funds at that time and go back through the routine. We will not get money for 5.75 per cent, though.

Mr. Rotenberg: To make it toll-free, you would have to get an amendment to the act of Congress so you would be able to get someone else to pay your expenses, because now you have to be self-supporting, I gather.

Mr. Carton: We are self-supporting, yes.

Mr. Rotenberg: That is in the act of Congress?

Mr. Carton: Yes.

Mr. Rotenberg: It would be a major international negotiation to make a toll-free bridge as the Burlington Bay Skyway is?

Mr. Carton: Yes.

Mr. Orr: Was there not a problem with one of the bridges?

Mr. Allan: The bridge commissions of the international bridges, with one exception, have been able to keep the bonds from being paid off. The commissions are still in existence. The one exception was Sarnia; that was toll-free for a short time, but it has instituted small tolls since. The Peace Bridge has been able to keep its few bonds from being paid off and to continue their existence. It seems the commissions like to manage the bridges.

Mr. McLean: Does the commission get any remuneration?

Mr. Allan: The indentured pension they get is the only remuneration.

Mr. McLean: You have to have a good expense account then.

Mr. Breaugh: This is another agency that operates at no cost to anybody.

Mr. Rotenberg: Just to carry Mr. Allan's thought one step further: If we get to the year 2000 and for some reason the commission were disbanded, I gather the bridge would probably revert half to the state of New York and half to the province of Ontario, to the respective departments of highways.

In that scenario, it would be up to those two jurisdictions. I guess the act of Congress would be sunsetted or it would be up to the two state and provincial jurisdictions to decide on the cost and management of the budget. That would be the legal scenario, if the--

Mr. Allan: I think the Sarnia Bridge could not operate--

Mr. Rotenberg: They tried to operate between Michigan and Ontario and it did not work?

Mr. Orr: It is in the act of Congress that the commissioners will serve without compensation.

Mr. Rotenberg: That is a strange way of doing things. Do you want us to go to Congress on your behalf?

Mr. Carton: Bear in mind too that this poses somewhat of a problem for the Niagara Falls Bridge Commission in that the Peace Bridge, with very little indebtedness, does not require the toll increases that perhaps we need to meet our liabilities. They are always lagging behind.

Mr. Rotenberg: Nobody is going to drive the extra 20 miles to save 10 cents--not very many people, anyway.

Mr. Carton: Not very many.

Mr. Rotenberg: It is a long way to go if you are going to New York.

Mr. Carton: Yes, it is.

Mr. Epp: Do you just have the one bridge under your jurisdiction?

Mr. Carton: Three.

Mr. Epp: The Whirlpool Bridge, the one at Queenston Heights and then there is the Rainbow Bridge.

Mr. Carton: The Peace Bridge is down the river--

Interjection.

Mr. Carton: No.

Mr. Epp: Is there any liaison between your commission and the Peace Bridge commission?

Mr. Carton: Not that I know of, other than that they probably belong to the same association of bridges or whatever.

Mr. Haber: There is an association called the International Bridge, Tunnel and Turnpike Association, which comprises all the international bridge operators, including the turnpikes. Then there are actually subcommittees of that, which are the international bridges, and the people share their problems at these meetings. The meetings happen about three or four times a year, but it is a professional organization. I do not think they give out deep secrets of how they are doing, but technically they interchange information. Financially, I do not think they do.

Mr. Rotenberg: Are those Canadian-American bridges or just Ontario-American bridges?

Mr. Haber: Those are the Canadian-American bridges along the border.

Interjection.

Mr. Haber: I stand corrected. There are other international bridges in Europe that are part of the same association.

Mr. Rotenberg: And the bridges at Tijuana would be part of that group and those over the Rio Grande and so on?

Mr. Haber: Yes, they could be members of that.

Mr. Mancini: The Ambassador Bridge?

Mr. Haber: Yes. The Ambassador Bridge is represented at the IBTTA.

Mr. Epp: I want to get back for a moment to maybe having to twin the bridge in a few years. Mr. Carton, is there no contingency fund for this? Are we all of a sudden going to be faced with the expense in a few years of twinning it, or are we setting aside 20 per cent of our revenues a year? What are we doing?

Mr. Carton: Probably Bernie can answer that question much better than I can. We are bound by this trust indenture as to what we do with the funds that come in. Subject to that, maybe Bernie can give you a fuller answer.

Mr. Haber: Yes. Very simply, we do not operate on a profit basis. Any moneys we have over and above what is taken in by tolls and after paying expenses go into a maintenance fund that is there to maintain the functioning of the bridge. As somebody here said before, there are required replacements over the years. We have been doing redecking of the Rainbow Bridge. We are continually doing painting.

Mr. Epp: You are just talking about operational expenses rather than maintenance and capital expenditures.

Mr. Haber: Yes. We are not doing anything with regard to new capital. We did spend \$60,000 about eight years ago on a new item; that was a toll area or an inspection area for buses. There was money set aside for that in the trust indenture, money that were left over when they built the original Lewiston-Queenston Bridge. That is the only capital expense we have had over the years, but there is nothing left over that you might say goes into a capital fund for the purpose of building a new bridge at some future time.

Mr. Rotenberg: Would it be illegal for you to do that?

Mr. Haber: Yes.

Mr. Carton: Any moneys that are in at the end of the year 2000 are handed back to the commission to bond over. In other words, we do not get that money; it goes back to the commission.

Mr. Epp: From where I sit--I am not faulting you, John, because it does not provide for that in the present legislation--it seems to me that somewhere in the near future an amendment should be brought in to correct that. Then you could have this contingency fund to expand the facilities in a few years when that is necessary rather than have everybody start to pay for it in the year 2000.

Mr. Carton: Except we made a contract with the bondholders. We did not make it personally, but this is our bible.

Mr. Epp: It cannot be amended?

Mr. Allan: I do not think you could amend it without making concessions to the bondholders who own the 5.75 per cent bonds.

Mr. Orr: The only thing you could do would be if you could feasibly finance, say, a replacement of the whole toll bridge with a new structure from a bond issue. You would pay this one off and float a new issue to do that, including the refinancing of the old issue. With interest rates the way they are now, it would probably be extremely difficult.

Mr. Rotenberg: (Inaudible) and the future users should pay it. I think in fairness when you are building a newer bridge, at that time you should issue a new bond issue and those who use the new bridge will pay it out of their tolls. Why should the people using the bridge now pay for something that is not going to happen for 20 years? It is a user-pay situation.

Mr. Epp: David, you cannot believe that.

Mr. Rotenberg: I do believe that.

Mr. Breaugh: (Inaudible) apply to the Ontario Junior Farmer Establishment Loan Corp. and get five per cent.

Mr. Rotenberg: I do not believe if I am going across the bridge today, I should pay a toll that is going to supply a bridge that is going to be built 20 years from now.

Mr. Epp: I guess you believe you should not cross that bridge till you get to it?

Mr. Rotenberg: That is exactly it.

2:50 p.m.

Mr. Haber: This is a common problem you will find with all turnpikes and bridges that are bonded. It happens all the time. The bond is paid off; what do we do next? The state entities, let us say, in the United States would prefer to keep the toll road going; it pays for itself. They do not have to take it over with the highway department and use tax dollars to maintain the structure; so they keep the toll system. They do a major improvement on the structure or on the highway--an expansion, a widening or a replacement--and they float new bonds as a separate indenture, a separate bond issue, from what that particular authority is under now.

It is a very common thing. We are consultants to a number of commissions, and that happens quite often and it is exactly the way they do it. In the year 2000 or in the year 1999 it may be decided that maybe another bridge is needed; and if another bridge is not needed, maybe--and I am pretty sure it will happen--some major rehabilitation will be needed. That would have to be paid for and it would be paid off by a separate bond issue.

Mr. Epp: I suppose governments have enough problems that they are not going to worry about this until that time, anyway.

Mr. Carton: So you think it is low on the priority list, Mr. Epp?

Mr. Epp: Yes. I want to get back to this expense thing. You said earlier, and I am not sure whether you said it in jest, that you do not get any expenses. But I am sure you got your expenses for today to cover your expenses--

Mr. Carton: No.

Mr. Epp: All this is out of your own money? If you go out for lunch today, it is on your own money?

Mr. Carton: Yes.

Mr. Breaugh: This is amazing.

Mr. Epp: It really is.

Mr. Breaugh: Not only amazing; it is a first. Even the Wolf Damage Assessment Board gets expense money.

Mr. Rotenberg: Do you get to claim mileage and that sort of thing?

Mr. Carton: They send me a cheque, I think, for \$160 for the eight meetings a year or six times or 10 times. I guess that is gasoline mileage; I have not checked it.

Mr. Epp: There is an element of fairness involved here. When I see some of the other ABCs we have before us, which should be sunsetted but cannot be, and then others that are serving a useful purpose, like yours, and you are not getting anything, I find it a little inconsistent. Nevertheless, I am not going to ask you to change it.

Mr. Carton: Actually, you wonder why you do it, and I will tell you why. On a nice day like today three times a year it is not that bad going to Niagara Falls. Each time there has been a change in the membership of the commission, I have said to myself, "Gosh, maybe it is time to get off." Then I make the mistake of meeting them and I think, "Hey, they are a nice group." You have an opportunity to meet with the four American commissssioners and the four Canadian commissioners, and there is an exchange of opinions and views. It is nice.

Mr. Allan: And a good lunch.

Mr. Carton: It is a good lunch.

Mr. McLean: Does the general manager not take you out for lunch?

Mr. Carton: We have luncheon in the bridge commission's building right on the bridge, in that tall, narrow building, three times a year when we go down there for a meeting.

Mr. Rotenberg: And you get free tolls when you go across.

Mr. Carton: No.

Mr. Rotenberg: You do not have a pass to get across the bridge?

Mr. Carton: I do not go across. I could not answer that.

Mr. Epp: Mr. Carton, you can now see how your colleagues think over here.

Mr. Carton: They have changed.

Mr. Edighoffer: I am kind of interested. We had a good chat down at the commission building the other day, and as I understand it, there are Canadians and there are Americans who look after the maintenance of the bridge on both sides.

Mr. Carton: I would imagine so, because they are split.

Mr. Edighoffer: Okay. What about the traffic on the bridge? I am just reading the rules and regulations here, and it says, "Violations of any rule or regulation governing or regulating traffic on that portion of the bridge within the territorial limits of the United States of America shall be a traffic infraction as that is defined in the Vehicle and Traffic Law of the state of New York and shall be punishable as such."

Does the same thing hold on the Canadian side? Is it policed by Niagara police, Ontario Provincial Police or regional police?

Mr. Carton: I honestly cannot answer that from my knowledge.

Interjection.

Mr. Epp: Sir, pardon me. Would you come over here so we can get you on the record?

Mr. Carton: He is Mr. Nash. He is one of the Canadian commissioners.

Mr. Nash: Years ago I was an assistant crown attorney. The demarcation line is marked with flags, and if an accident happened on our side we would lay a charge as though it were on Canadian territory, and the American side would do similarly. We had some questions about it, but it has never been contested in the upper courts.

Mr. Rotenberg: By the Ontario Provincial Police?

Mr. Nash: By the OPP.

Mr. Edighoffer: I really do not have any other questions. I think they are pretty stiff in their tolls, though. It says here: "17. Funerals--Each automobile, hearse and driver, 50 cents. Each additional occupant, 10 cents." Do you carry that down--

Mr. Epp: Did you really want an answer?

Mr. Watson: I asked all mine in Niagara. I dare not open my mouth now.

Mr. Haber: This is an interesting thing. There is a commission in Indiana in the United States that is called the White County Bridge Commission. It is just a little toll booth on a narrow, little two-lane bridge. It goes across the Wabash River. At one end of the bridge is a slaughterhouse. They have a little book like that. You pay a certain amount for the cattle that come across alive. You pay a lesser amount coming back when they have been slaughtered. They do very well down there.

Mr. Chairman: We seem to have exhausted the questions quickly. I think it is because all your answers were so good and so innocent. There was no way for even Mr. Breaugh to dig in.

Mr. Breaugh: Perhaps we are afraid of Jim Allan.

Mr. Carton: So are we.

Mr. Chairman: I thank you for appearing before us. I regret that we were not able to cross-examine or do any other thing for any longer. You can enjoy the rest of the day outside.

Mr. Carton: Thank you, Mr. Chairman and members of the committee.

Mr. Chairman: Members of the committee, tomorrow morning we are scheduled to meet in camera to consider the Ontario Junior Farmer Establishment Loan Corp., the Children's Services Review Board and the Niagara Falls Bridge Commission.

John, are you going to have anything, or will we just start from scratch?

Mr. Eichmanis: I have the recommendations for the Ontario International Corp., the Animal Care Review Board and the Niagara Parks Commission.

Mr. Chairman: We will be going over that. Unless anyone has anything else to say, we will adjourn until tomorrow morning at 10 o'clock.

The committee adjourned at 2:58 p.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

NINTH REPORT ON AGENCIES, BOARDS AND COMMISSIONS

DEATH OF MICHAEL BREAUGH'S MOTHER

SEVENTH AND EIGHTH REPORTS ON AGENCIES, BOARDS AND COMMISSIONS

PREMATURE DISCLOSURE OF COMMITTEE REPORTS

REFERRING SUBJECTS TO COMMITTEE

CONFLICT OF INTEREST

THURSDAY, OCTOBER 11, 1984

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Charlton, B. A. (Hamilton Mountain NDP)
Cureatz, S. L., (Durham East PC)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Kells, M. C. (Humber PC)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Clerk: Forsyth, S.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, October 11, 1984

The committee met at 11:03 a.m. in room 228.

NINTH REPORT ON AGENCIES, BOARDS AND COMMISSIONS

Mr. Chairman: Let us start the proceedings of the morning. The first matter is the report.

Mr. Watson: We have a heavy quorum now.

Mr. Kells: I was only trying to save a company.

Mr. Chairman: Morley, I would just like to point out that you do not really exist this morning.

Mr. Kells: That is okay; I do not mind not existing today. I have been called worse than that at times.

Mr. Mancini: I just want to remind Morley that Prime Minister Mulroney and his government are against all these giveaways and grants to corporations. We should not forget that.

Mr. Kells: I am trying to save a company with 92 employees.

Mr. Chairman: Shall we deal with the first item on the agenda, approval of the ninth report on agencies, boards and commissions? You have a copy in front of you. Since the House is back, rather than having a consultation with the people we are able to go through this personally together instead of by mail.

Mr. McLean: I think, Mr. Chairman, this is what we had recommended. I have gone through it and the recommendations in there are what we approved here at a meeting previously, are they not?

Mr. Chairman: Yes.

Mr. Eichmanis: There is one point I would like to raise with the committee. It is the custom to include in these reports responses to the recommendations that we made in the previous report. So far I have received responses only from the Minister of Industry and Trade (Mr. F. S. Miller) with respect to the IDEA Corp., the Minister of Natural Resources (Mr. Pope) with respect to the Game and Fish Hearing Board and the Minister of Agriculture and Food (Mr. Timbrell) with respect to the the Crop Insurance Commission of Ontario.

The question is whether to wait for another week or so to get responses from the other ministers with respect to the other agencies on which we made recommendations, or whether simply to include in this report the responses from those three ministers

and not wait for further responses.

Mr. McLean: What is the point of waiting for a response from them?

Mr. Eichmanis: It was simply that in previous reports I have always included the ministers' responses to the committee's recommendations as part of the report, and it is really a question of whether the committee wants to hear from all those ministers or whether it will be satisfied with simply including the responses we have received to date.

Mr. Edighoffer: I do not see any problem with waiting a couple of weeks. What is the difference?

Mr. Mancini: We have nothing to do here anyway, since the leadership race is on.

Mr. Chairman: We can wait a couple of weeks, but then we do not want to find ourselves at that point waiting a couple more weeks. If we are going to wait, we should at least write to the ministers who have not responded and bug them.

Mr. Watson: Two weeks? They are not going to answer us in two weeks.

Mr. Chairman: Fine, but they have already had several weeks.

Mr. Mancini: They are old and slow around here.

Mr. Chairman: Some of them have already had several months to respond. Perhaps we should give them another two weeks and say we are holding up our report for two weeks and if we have not received their response in that time, we will proceed to put the report to the House.

Mr. Edighoffer: That gives them ample time.

Mr. Watson: I do not see that it makes any difference. If it ever comes up for debate, the information comes back and whoever is going to debate it is going to refer to these things anyway.

Mr. Mancini: Bob Nixon thought we might be debating this very soon.

Mr. Eichmanis: We are debating the seventh and eighth reports tonight.

Mr. Watson: This is nine, is it not?

Mr. Eichmanis: Yes, this is nine.

Mr. Watson: Is it responses to the seventh and eighth reports that we are awaiting?

Mr. Eichmanis: To the eighth report. The responses to

the seventh report are included in the eighth report. We have not received the responses to the eighth report.

Mr. Watson: Which ones are we waiting for?

Mr. Eichmanis: We are waiting for the people who visited the Homewood sanitarium, which would be the Ministry of Health; the Ontario Board of Parole, which is the Ministry of Correctional Services; the Social Assistance Review Board, which is the Ministry of Community and Social Services; the Nursing Homes Review Board, which is the Ministry of Community and Social Services; the Alcoholism and Drug Addiction Research Foundation, which is the Ministry of Health; and the Board of Funeral Services, which is the Ministry of Community and Social Services.

Mr. Watson: No, the Board of Funeral Services is under the Ministry of Health.

Mr. Eichmanis: There are about five or six that have not yet responded; only three have.

In the eighth report, I got responses from all bodies except the Ontario Advisory Council on the Status of Women. When I wrote the report, I had to indicate we did not have a response from the council. We can do the same this time, simply indicating that to date we have received responses from only three ministers and leave it at that.

Mr. Mancini: I think we should press for the responses.

Mr. Chairman: All right, write to them, give them two weeks. Bug them, give them two weeks and say we will put it in if we have not heard from them in that time.

Mr. Mancini: We really should show our displeasure that a lot of these responses have not come in for the report. We are supposed to debate it tonight. It really makes a mockery of what we are doing.

Mr. Eichmanis: With respect to that issue, there is a comment by the committee on page 1. It says, "In addition, the committee urges ministers under whom these agencies fall to give serious and thoughtful consideration to the committee's recommendations."

Mr. Chairman: Is two weeks all right? We will write to them and bug them. Fine, it is agreed.

The next item is the decision on the form of the report to the House and the date of presentation. Obviously, the date of presentation will follow the two-week period. For myself if for no one else, Smirle, will you outline the different methods by which we can present it to the House?

Clerk of the Committee: Under the standing orders there are three means of presenting it: to just present it, to present it and ask that it be considered, or present it and ask that the recommendations be adopted. That is what we have done with all the

other reports on agencies, boards and commissions.

Mr. Chairman: Ask that it be adopted?

Clerk of the Committee: Yes.

Mr. Watson: Then you say about 10 words and we adjourn the debate so that when it comes to a night such as tonight and we want to pick it up and discuss it, it is "resuming the adjourned debate."

Mr. Chairman: Right.

Clerk of the Committee: The question, "Shall the report be adopted," is then put at the end. The question is put when everyone is finished discussing it.

Mr. Chairman: We need the latter one for it to be discussed by the House, is that correct?

11:10 a.m.

Clerk of the Committee: No. You can choose the second one, which just permits discussion. There is no resolution of the matter; it is just discussed and that is it. When the discussion is finished, that is it.

Mr. Chairman: My thoughts are that if we go to the trouble of presenting a report with recommendations, we should at least ask the House to adopt it or otherwise. That is usual, is it not?

Clerk of the Committee: For this report, yes.

Mr. Chairman: Yes, for the agencies, boards and commissions. So we will follow the same procedure.

Mr. Mancini: Is that what we are supposed to do tonight? Is that it?

Mr. Chairman: What we are doing tonight is--

Mr. Eichmanis: Seven and eight.

Mr. Chairman: --asking for adoption of seven and eight.

Mr. Mancini: How can we ask for that when we have not even got responses?

Mr. Chairman: No, this is nine. We are still on nine.

Mr. Mancini: I see.

Mr. Eichmanis: Seven and eight are the other two reports that we have already bound and tabled in the House.

Mr. Chairman: Okay, we will present it to the House and ask for adoption. The date, I will--

Clerk of the Committee: It will probably be about two weeks after, in about a month's time.

Mr. Chairman: In about a month's time. We will present the ninth report to the House about two weeks after our deadline closes from responses from these ministers. It will be about a month before that is presented to the House.

Regarding the next item on the agenda, have you all got copies of this letter from the clerk? It appears sticky. I just glanced through it, but may I say that those three items are not minor items that are set forth in this private bill. They are rather major items.

On number one, it is my understanding that throughout the province where there are five-member police commissions, two are appointed by the local municipality and three by the Lieutenant Governor in Council. This proposes to change it to three from the local municipality and two from the Lieutenant Governor in Council.

The next one is collection of payment for arrears of water rates. The last one is, I guess you could say--

Interjection.

Mr. Chairman: Yes, then there is the adverse possession of regional lands. The last one looks quite controversial, the election of a regional chairman, changing the Regional Municipality of Hamilton-Wentworth Act.

In speaking to the clerk it appears, at least to me, a rather fine distinction. The clerk is pointing out this is a private bill that the municipality of Hamilton-Wentworth has brought forward. The clerk has sought the advice of legislative counsel and they are of the opinion that while a private bill may seek exemption from or additions to a public act, in this case it is an amendment to a public act, the Regional Municipality of Hamilton-Wentworth Act; therefore, it is not appropriate for a private bill to attempt to amend a public act. A public act should be amended by another public act.

Therefore, the clerk has referred this to the standing committee on procedural affairs to determine whether or not a private bill should be permitted to amend a public act. They have given their opinion but they are putting it to us under standing order 66(b).

My immediate thought is that none of us is a legislative and statutory expert, per se. Although this committee is vested with those technical matters, it would seem to me we would seek technical advice, perhaps a report from the legislative counsel, a brief from him or an opinion from him.

Also, as the clerk has mentioned to me, since the Regional Municipality of Hamilton-Wentworth Act would be under the purview of the Ministry of Municipal Affairs and Housing, we should seek the opinion of that ministry about what its position is on this technical question.

It is not so much the contents; the contents are not in our purview, and we are not being asked to deal with the contents. We are being asked to deal with the propriety of this private bill amending a public act, and I think the ministry and its technical staff would certainly wish some input on this.

Do you concur with my thoughts on seeking the advice of those two bodies, and do you have any other suggestions?

Interjection.

Mr. Chairman: Yes, the applicant, the municipality of Hamilton-Wentworth, might well wish to appear before us or put in written form its technical arguments concerning why this private bill should be permitted to amend a public act.

Mr. Watson: It seems to me on the surface that this subject should be contained in a private member's bill to amend a piece of legislation, rather than in a private bill.

Mr. Chairman: Yes, a government bill or a private member's bill but not a private bill--one or the other that is going to be a public act. In other words, amend a public act with another public bill of some kind. Any thoughts about our procedure?

Mr. Watson: I would like that confirmed, but that is the kind of thing it appears to be doing. It certainly changes the legislation.

Mr. McLean: Item 1 you are not going to change; nobody is going to change it, because the Solicitor General (Mr. G. W. Taylor) has said that is the legislation and that is the way it is going to remain. There is nothing we or any committee can do unless they wanted to bring in legislation in the House by the minister to do it.

Clerk of the Committee: But if a member of the public or an organization wants to make an application for private legislation, he has a right to do so under the standing orders if he can get a member of the House to introduce it. They had a member who was willing to sponsor it, but because doubt has been raised about whether the contents are actually those of a private bill, this committee has to make the decision about whether the application can go ahead or not. If it decides it can go ahead--

Mr. Cureatz: Can?

Clerk of the Committee: If the committee says to the clerk, "Yes, we recommend that this go ahead; the subject matter is a private bill matter," then it would be introduced and go to a standing committee, and the committee would deal with it, either to accept or to reject the amendment. This committee's function is just to determine whether the provisions included in the draft bill are those of a private bill.

Mr. Chairman: In other words, we are asked to decide whether the procedure is correct, not the merits of the matter.

Mr. Watson: Are we not going through the same argument that we go through every time somebody brings in a bill that spends money?

Mr. Chairman: No, that is a given.

Mr. Watson: You cannot have a nongovernment bill that spends money. We all know there is a grey area there, because you might approve something that obviously entails some money. But if somebody brought in a private bill to provide a grant of \$100 to every person in Ontario, as I understand it that bill would not be accepted.

11:20 a.m.

Mr. Chairman: Technically it is not the right procedure; correct. I guess here we are being asked to judge whether or not this private bill is the correct procedure. Would you suggest that two weeks from now we invite legislative counsel and representatives of the Ministry of Municipal Affairs and Housing and perhaps the applicant municipality to appear before us to give us their opinions on this?

Mr. Watson: Who is the sponsor?

Clerk of the Committee: It was Eric Cunningham. There would have to be a new sponsor. When he was here he was prepared to sponsor it. A new one would have to be found. Because you sponsor a bill does not mean you are in favour of it.

Mr. Watson: I am well aware of that. I suspect these people know what they are doing. I suspect they are not going in and making an innocent mistake.

Mr. Chairman: Hamilton-Wentworth is a large enough municipality with a staff of solicitors that I can assume your assumption is correct.

Clerk of the Committee: They are aware of the concerns expressed by the clerk and legislative counsel. They said that in their opinion it would be fine if it went before the standing committee on procedural affairs for review. They are prepared to come and discuss it with the committee. They know the concerns that have been expressed.

Mr. Watson: Our problem is that if we are going to have them before us as a committee, we are going to get into the problem of having legal counsel here, because I am not qualified to go willy-nilly.

Mr. Chairman: Of course, we would hear legislative counsel, who presumably is an impartial person and is here to advise us. Legislative counsel would be our counsel to advise this committee. If you wish, the other two sides would be the Ministry of Municipal Affairs and Housing and the municipality of Hamilton-Wentworth.

Mr. Watson: It would be interesting to know from an

exploring point of view what the ministry position is. There are different sections but I am like Al in saying that the Solicitor General (Mr. G. W. Taylor) has been fairly straightforward in saying, "This is not going to change."

Mr. Chairman: That is the merits, and this is not referred to us in any way to get into the merits of the makeup of the police commission or any of the merits of the bill that they are trying to bring in.

Mr. Watson: I agree with you 100 per cent, but if the bottom line for Hamilton-Wentworth is that this is not going to fly one way or the other, is it aware of that?

Mr. Chairman: It is not up to us to decide whether it will fly or not. That is up to another committee. If we pass it on, for example, and say, "We think this is the appropriate procedure," it would then go to some other committee to deal with the merits.

Mr. Watson: Okay. I will relent.

Mr. Cureatz: Picking on the appropriate procedure, it seems to me all you are doing is rubber-stamping it. If the procedure is to follow step A, B or C, then all you have to do is follow those steps and we let it go. It seems to me that is not what we are supposed to be doing. We are supposed to be looking at the merits of it.

Mr. Chairman: No. It is only referred to us by the clerk to see whether the proper procedure is being followed, i.e., can you amend a public act by a private bill? Is that what it is doing? Is it amending? If you look at the second paragraph of the clerk's letter, he is drawing a distinction between an exemption or addition to a public act, as contrasted with an amendment to a public act. It is his position that this is an amendment to a public act and that a public act can only be amended by another public act.

Perhaps the committee feels it does not recognize that distinction and says: "We do not see that distinction. We do not see any difference between an addition, an exemption and an amendment." Then it would be proper procedure. It would leave us and wend its way through the proper committee.

Mr. Cureatz: An addition is an amendment.

Mr. Chairman: The clerk is drawing a distinction--

Mr. Cureatz: I know that.

Mr. Chairman: That is exactly the crux of the question.

Mr. Watson: If I can go back to my original example, if a bill came to us--we can talk about this because it is not in here--that specifically spent government money, we would say it is out of order. I am sure we would, if I understand the rules.

Mr. Chairman: Yes, the standing orders state so.

Mr. Watson: If somebody insisted it came to us, we would rule it out of order. That is essentially what you want to do here. Either this bill is in order or it is out of order.

Mr. Chairman: The Speaker would probably rule that, but if the Speaker, for some reason, did refer it down here, we would adjudge, look at the standing orders, come to a conclusion and answer the Speaker. In this case we are answering the clerk.

Mr. Watson: The Speaker is not going to be involved in this one. We cannot carry that comparison back the other way.

Mr. Chairman: No, the Speaker will not be involved in this one.

Mr. Edighoffer: I think if we got the ministry and the municipality in here, we would spent an awful lot of time on the merits of the bill, which I do not think we should be doing. Even next week I think we should just get the legislative counsel in and have a good go at it with him.

Mr. Watson: We cannot get the Ministry of Municipal Affairs and Housing and Hamilton-Wentworth in without getting into the merits of it.

Mr. Chairman: It would be my job to keep them away from the merits.

Mr. Watson: I do not care. You would be into them.

Mr. Chairman: The only problem with Mr. Edighoffer's suggestion is how the legislative counsel is going to be perceived. Is he going to be perceived as being on one side and then we are making a decision hearing one side only without hearing the other side? Would that be the perspective from which the municipality would look at it?

Mr. Edighoffer: If legislative counsel were here, the first thing I would want to know is whether there was any precedent, whether any such thing had happened before. I do not see anything wrong with bringing him in to find out that type of thing. We can still make the decision to get the other two bodies in the next week if we feel we want to.

Mr. Chairman: Okay. Invite the legislative counsel here for next week.

Clerk of the Committee: Should the other people be advised of the hearing?

Mr. Chairman: Is it a hearing?

Clerk of the Committee: No, it is a committee meeting.

Mr. Cureatz: The other people cannot help the side in terms of whether it is appropriate. If they want to discuss the

merits, that is for another forum.

Mr. Watson: You are not going to separate them.

Mr. Chairman: We will have to separate them because we are not dealing with the merits.

Mr. Watson: We have to deal with the subject.

Mr. Chairman: No. We are a procedural affairs committee and this is a procedure we are dealing with only.

Mr. Watson: The procedure is relatively clear.

Mr. Cureatz: We are not clear.

Mr. Watson: What we have to decide is whether this situation applies to that.

Mr. Chairman: No.

Mr. Edighoffer: Whether a private bill can amend a government bill.

Mr. Chairman: Right.

Mr. Edighoffer: That is really what we have to decide.

Mr. Watson: If we are going to decide on that and that only, then we need the legislative counsel.

Mr. Mancini: I just want to add that in the end result having a private bill amend a government bill is actually done by the Legislature. So it will ultimately be government that accepts the private bill to amend its own legislation. Once it gets through the private bills committee, then it must go to the House. It can have debate, and some of these bills are debated. It is at that time the government, in co-operation with the Legislature, decides whether this should be done. In my view, there should be no reason a private bill cannot go through that route and actually amend the government bill.

11:30 a.m.

Mr. Chairman: We are an arm of the Legislature and we are being asked to judge whether it is appropriate to start that procedure. That is why we are an arm of the Legislature. We cannot refer it back and say, "Hey, Legislature, you decide this." The purpose of this committee is to decide procedures.

The only place the subject matter would come in is if we would decide whether the subject matter of this private bill were appropriate to follow the procedures they are trying to do, a private bill amending a public act.

Mr. Mancini: Mr. Chairman, that question is irrelevant. Whether or not we want that to happen, it will ultimately be decided by the Legislature. It will be decided on the merits of

that bill.

Mr. Chairman: No. On the contrary, if we decide this is an improper procedure and that is confirmed by legislative counsel, by ourselves, by this committee, then I presume the clerk will tell the applicant municipality: "I am sorry, we will not accept this bill because it is for an improper purpose. You must take a different route."

Mr. Mancini: Basically our fear is that if we allow private bills to amend government legislation, if we allow them to go that route, we will get 100 a week because different groups and/or municipalities will want to have all these different pieces of government legislation changed. Is that the logic behind it?

Mr. Chairman: Yes. There is a set procedure that, as a fundamental thing, private acts can only be amended by private acts. Really the question is, can something else come along? Is this an amendment to a private act?

Mr. Mancini: I understand what you are saying, that private acts can only amend private acts, but there has to be some logic and thinking behind it. Is the logic and thinking behind it that we want to prohibit this tremendous influx of private bills that we may expect? Is that it?

Mr. Chairman: I would assume the public has the right to know what public bills are before the Legislature and not be amending public acts by means of other procedures, i.e., private bills.

Mr. Mancini: You are saying we legislators should do that. That is basically what you are saying, not that I find it improper.

Mr. Chairman: Yes, I guess that is correct.

Mr. Mancini: Without even knowing it, Mr. Chairman, you have convinced me to agree with you.

Mr. Watson: He did not do that for me. I shall be watching with interest next week when you do not let the subject matter get into the discussion. I think you are going to have some fun.

You said a few minutes ago it was going to be your job to keep the subject matter out of the philosophical discussion. It will be interesting to watch you keep the subject matter out of the discussion.

Mr. Chairman: The only reference to the subject matter should be a reference--

Mr. Watson: You are now hedging a little, sir.

Mr. Chairman: --to the subject matter by saying, "This subject matter is an amendment or is not an amendment," without getting any further into the merits of what the subject matter is.

Mr. Watson: I agree that we bring the counsel first, that we try to deal with it in terms of the philosophy. I say take a run at it that way first.

Mr. Cureatz: I agree with that.

Mr. Chairman: All right. We will get the legislative counsel in next week and have a brief from him. The clerk advised me we should advise the applicant that this is the procedure we are going to follow. This is a public committee and they might take umbrage; they might perceive us as carrying on not in their presence.

Mr. Cureatz: Invite them, sure.

Mr. Chairman: No, not invite them, simply advise them that we are seeking legislative counsel's advice next week.

Mr. Cureatz: While we are inviting counsel, bring to his attention the part I am concerned about, and I am sure other members are, that if we do allow private bills that exempt, that differentiates between an amendment--to my mind an exemption is an amendment, right?

Mr. Chairman: That is what we will bring up with him, to distinguish between an exemption and an addition on one side and an amendment on the other. It is a pretty fine line, is it not? That is pretty heavy stuff working our minds this early in the morning.

The next item on the agenda is the proposed discussion in the House this evening of the seventh and eighth reports of this committee on the agencies, boards and commissions. We have to decide who is going to speak on them. Right off the top, I will say my nomination meeting is tonight, so I will not be here.

DEATH OF MICHAEL BREAUGH'S MOTHER

Mr. Chairman: Mike Breaugh will not be here. His mother apparently has passed away. Mike is not here now and obviously will not be here this evening.

Mr. Mancini: Maybe we should send a card from the committee or something?

Mr. Chairman: That is a nice idea or flowers or something from the committee.

Interjection.

Mr. Chairman: Is a card sufficient? The idea has been expressed that the committee send a card of regrets to Mike Breaugh from the entire committee. The clerk will take care of expressing our regrets.

SEVENTH AND EIGHTH REPORTS ON AGENCIES, BOARDS AND COMMISSIONS

Mr. Chairman: Who wishes to speak to reports seven and

eight? John, perhaps you can outline what agencies, boards and commissions are involved. This will titillate your memory.

Interjection.

Mr. Chairman: No.

Mr. Cureatz: I was not on it, so I do not know what it was.

Mr. Chairman: That is fine. You certainly will be as knowledgeable as anybody else.

Mr. Eichmanis: Report seven takes us back a year or so. At that time we dealt with the Ontario Status of Women Council, Ontario Manpower Commission, Ontario Cancer Treatment and Research Foundation and the Law Society of Upper Canada. As I recall, Mr. Cureatz, you were--

Mr. Cureatz: The law society.

Mr. Eichmanis: Yes, the law society. You were interested in that.

Mr. Cureatz: We could say a few words on that.

Mr. Eichmanis: Another was the Criminal Injuries Compensation Board, which has received some interest in the last little while.

Mr. Mancini: Only because of the salary.

Mr. Cureatz: I think I will keep that one--

Mr. Chairman: Who is going to speak? Remo?

Mr. Mancini: I think I could build myself up to say a few words.

Mr. Chairman: About all of those?

Mr. Mancini: Yes.

Mr. Eichmanis: I may point out that, apart from the Ontario Status of Women Council, the responses of the minister and heads of those agencies are included in the eighth report eight. If Mr. Cureatz is interested in the law society, for example, then he could not only read the recommendations that we propose but also the responses of the Attorney General (Mr. McMurtry) and the treasurer of the law society.

Mr. Chairman: So Remo will speak, Sam, you will--

Mr. Cureatz: You want me to review the recommendations.

Mr. Chairman: I will not be here.

Mr. Mancini: Sam is going to go first, or how are we

going to do this?

Mr. Chairman: Take your pick.

Mr. Cureatz: Yes, I will start.

Clerk of the Committee: There are two other reports that are going to come up first and ours will come up later. I understand if ours comes up, they are going to adjourn the debate because Mike Breaugh wanted to participate, so it will be resumed--

Interjection

Clerk of the Committee: I think the reports will be debated tonight, but they will not be voted on tonight.

Mr. Cureatz: Are we first?

Clerk of the Committee: No. Two other reports are going to be considered first.

Mr. Chairman: The last person will adjourn the debate so that Mike can--

Mr. Cureatz: There may be other changes in the House leaders' meeting--

Mr. Chairman: Those have already been introduced to the House months and months ago.

Mr. Cureatz: We can carry on then.

Mr. Mancini: We are going to concentrate on seven because we do not have any responses to eight. Is that what we are doing?

Clerk of the Committee: Not very many.

Mr. Eichmanis: Okay. We have only three responses. I believe the clerk has sent those around. If you want extra copies of the three responses--

Mr. Eichmanis: Mr. Mancini was interested in the Game and Fish Hearing Board, and the minister had responded to that. The Minister of Industry and Trade (Mr. F. S. Miller) responded with respect to IDEA Corp. Mr. Epp was interested in that one and the Co-operative Loans Board of Ontario was of interest to Mr. Watson.

Mr. Mancini: So those three have been responded to?

Mr. Eichmanis: They have been responded to. If you want me to make copies of those responses, I will make them.

11:40 a.m.

Mr. Chairman: Remo, you will speak also especially on the Game and Fish Hearing Board. You will take a crack at eight as well.

What I would suggest we do is that whoever speaks last on seven adjourns that debate to let Mike have his shot.

Clerk of the Committee: There may be other members and some of the ministers who may want to speak, the parliamentary assistants.

Mr. Chairman: Yes, but try to make sure the debate is adjourned. Then when we go on to eight, do a similar thing: adjourn the debate again on that, again giving Mike a chance at it.

Mr. Edighoffer: So if a minister gets in and nobody else wants to speak, another member just gets up and adjourns the debate and the debate is over.

Mr. Chairman: Yes. That is all it will take.

Mr. Watson: I will not be there tonight.

Mr. Chairman: Are you being nominated also?

Mr. Watson: No. I have been nominated (inaudible) campaign hard against Fergie.

Mr. Chairman: That is wishful thinking.

Mr. Watson: Maurice has told us he had about 10 jobs lined up.

Mr. Mancini: Who is that?

Mr. Watson: Maurice said he had all these job offers.

Mr. Mancini: I do not even know who Maurice is.

Mr. Watson: Maurice Bossy. He told the press he had all these job offers.

Mr. Cureatz: He is a candidate now, is he not?

Mr. Mancini: So he is not going to be able to wait? Is that what you are telling us?

Mr. Watson: No. He was going to be a candidate.

PREMATURE DISCLOSURE OF COMMITTEE REPORTS

Mr. Chairman: Item 5 on the agenda is "Future Business: consideration of committee reports on procedure." Again, would the clerk refresh my memory?

Clerk of the Committee: The committee has submitted a couple of reports that are on the Orders and Notices dealing with the standing orders and procedure of the House. One dealt with a wide number of matters, including division bells; the other dealt with premature disclosure of committee reports.

Before we adjourned in June we submitted the last report on premature disclosure of committee reports. At that time the committee indicated it might put a little pressure on the House leaders to have the report debated at the earliest opportunity and try to get it adopted. The other report, which deals with quite a few amendments to the standing orders, has not been discussed in the House yet.

Mr. Chairman: The question is whether we should jog the House leaders along to get those reports debated. Should we ask the House leaders to come in front of us concerning why they have not been debated, or should we do nothing?

Mr. Watson: I think that is the appropriate thing.

Mr. Chairman: Should we just let them sit the way they are until the House leaders agree or until the government agrees to bring them up?

Mr. Edighoffer: Just keep going after Tom Wells; that is the only thing.

Mr. Watson: Tom Wells? I did not think that was the problem.

Mr. Chairman: I think the problem lies a little closer to Hugh.

Mr. Edighoffer: No problem there.

Mr. Chairman: What do you suggest we do about the report? We worked a year and a half on revision of the standing orders. What do you suggest we do?

Mr. Watson: I suggest that we have done what we were supposed to do. We submitted a report, and it is now out of our hands.

Interjection.

Mr. Chairman: Could we contact the three House leaders, write to them and ask them when they anticipate bringing it on for debate?

Mr. Watson: You can do anything in this world, but I am kind of with you. I think the thing is there--

Mr. Edighoffer: We can write to the three of them, but who knows? They will just write back and say, "It is up to Mr. Wells."

Mr. Watson: Mr. Wells says, "Because we know what so-and-so thinks, there is no use in bringing it forward."

Mr. Chairman: We have two choices: We either write to them, jog their memories and ask that question, "When it is going to come on?" or we do nothing. What does the committee wish?

Mr. Edighoffer: You would not do anything?

Mr. Watson: I like to have some reasonable expectation of something to occur. A letter is not likely to do much.

Mr. McNeil: Why do we not leave it in the hands of the chairman?

Mr. Edighoffer: That one report on disclosure was referred to us by the Speaker, was it not? I do not see why we should not go after them to discuss that at least.

Clerk of the Committee: At the time the committee discussed it, there seemed to be the feeling that it could be adopted with very little debate by the House because it set out some general guidelines. It was not amending any standing orders, but just setting out some practices or recommendations. The other one deals with substantitive changes to the standing orders.

Mr. Edighoffer: I would just write to the government House leader and say we sent in a report replying to a request from the Speaker and we hope it will be dealt with soon in the House.

Mr. Chairman: Is it in order to write to the government House leader regarding that report only?

Mr. Edighoffer: Sure. Let us face it. We know what is going to happen to the other one; it is just going to sit. Let us see if we can push on one.

Mr. Mancini: I would like to get something adopted in this parliament.

Mr. Edighoffer: There really is not much to it. All we are doing is trying to set guidelines for all committee chairman in that report.

Mr. Watson: I have no qualms on that one. On this conflict of interest report, I see no--

Mr. Chairman: The premature disclosure report.

Mr. Watson: I get a kick out of Hughie pointing the finger at the government House leader on this other one, saying it is him.

Mr. Edighoffer: It is. I do not know who else calls the business of the House.

Mr. Mancini: He is in charge around here. You may not know this, Andy, but the government is in charge.

Mr. Watson: Yes, we are, no question.

Mr. Chairman: I shall write on behalf of committee about the premature disclosure report, as Mr. Edighoffer suggests, and we shall do nothing on the other report for the present time. All

right, that is the committee's wish.

REFERRING SUBJECTS TO COMMITTEE

Mr. Chairman: With respect to the next one, the matter of how statutory annual reports which are referred to a committee are put on a committee's agenda, I would suggest that we postpone this today because Mike Breaugh is not here. Mike is the one who brought that up and feels the strongest on that question. Again, because of his understandable absence, shall we put that off until next week?

CONFLICT OF INTEREST

Mr. Chairman: The next thing is conflict of interest. We received a lot of information on conflict of interest some months ago. When do you want to start discussing this? It was referred to us also by the Speaker at the same time as the premature disclosure matter. When do you wish to take this up? Is that the next order of business, or shall we go ahead with the private bills matter?

Mr. Watson: What private bills matter was that?

Mr. Chairman: We had the amendment of the private bills procedures. We dealt with legislative counsel nearly a year ago--it must be nearly a year ago--on changes in procedures, as I recall, advertising and many other things, consolidations of private bills, revisions and so on.

What should we start on first? The private bills is probably a shorter matter than the conflict of interest matter. What is your wish?

11:50 a.m.

Mr. Watson: I do not want to prolong the discussion, but what are you expecting in the conflict of interest discussion? Do we have a directive?

Mr. Chairman: Yes. We have a directive from the Speaker to consider conflict of interest. I believe Mike Breaugh brought up in the House originally, approximately a year ago, the question of conflict of interest of members.

Clerk of Committee: It originally started with the teachers' superannuation fund.

Mr. Chairman: The superannuation fund, for example. That was his original problem. He is a retired teacher. If legislation perhaps did come up on the superannuation fund, he was concerned about what his position was on voting on that and taking part in that.

Clerk of the Committee: It also came up in this private bill affecting Susan Fish when she was on the city of Toronto council.

Mr. Chairman: Oh yes, the Honourable Susan Fish. It was something to do with when she was on the municipal council.

Mr. Mancini: I see no problem with members of the Legislature taking part in all these debates. Just to give you an example, we have a good number of full-time professional farmers in the Legislature. All of them speak on farm bills. All of them stand and ask the government to provide one thing or another on behalf of the farmers. They feel they are not particularly speaking for themselves but for a constituency. I cannot see why that notion cannot be expanded to all the other things we debate.

Mr. Chairman: The conflict of interest guidelines are a lot more far-reaching. As you know, the Municipal Conflict of Interest Act came about because of a dearth of legislation and proper procedures for municipal councillors. The act came out approximately two or three years ago for municipal councillors. We have no similar conflict of interest guidelines or legislation for members.

Mr. Mancini: In my view, we do not need them because we would be excluding a good portion of the Legislature every time we had to debate something. How can we have a debate on agriculture if the member for Grey (Mr. McKessock) or the member for Haldimand-Norfolk (Mr. G. I. Miller) cannot participate?

Mr. Chairman: No. It is also disclosing interest if you have an interest in a contract, if the government is dealing with some particular thing and you, your company, your wife or your children have a particular interest. It goes far beyond the farmer voting on a farm bill.

Mr. Watson: Remo is right, though. He uses the farmer, but 'let us use a labour union; it is the same thing.

Mr. Chairman: This matter is referred to us by the Speaker, and I do not think we can pass it off in that way. We may end up saying that and coming to the conclusion that none is necessary, but we have to sit down and consider all the material that has been given to us and the Speaker's words and directions to us. We have to come back with a report of some kind, whether that report is simply as Remo is suggesting that nothing needs to be done.

Mr. Mancini: I am not sure we even want to get into the realm of studying and filing a report. The way things are operating now and the way I understand it, if you are a cabinet minister you automatically have to disclose all your interests and in one way or another remove yourself from whatever interests you have, put things in a blind trust or sell or something.

Sam, could you please help me here? I am told that if you are a parliamentary assistant, you also have some type of restriction. I do not fully understand the restrictions on the parliamentary assistants.

Mr. Cureatz: They are the same as on the cabinet ministers.

Mr. Mancini: They are the same as on the cabinet ministers? In my view, those restrictions are sufficient.

Mr. Chairman: Are you saying we should decline to deal with it and simply advise the Speaker that we decline to deal with his direction to deal with the conflict of interest? That is what it amounts to. He has referred it to us.

Mr. Mancini: What made the Speaker send it to us?

Mr. Chairman: Mr. Breaugh asked for a clarification and the Speaker referred it to the procedural affairs committee at the same time as the premature disclosure matter.

Mr. Watson: I do not see any harm in it. I think we should answer the Speaker. Maybe we are not going to recommend things, but we may come up with recommendations to provide a system whereby if a member feels there is a conflict, he has the opportunity to say something.

Mr. Mancini: That is true, but doing that automatically places on every other member the worry about whether he or she should do the same thing about a whole group of other issues being faced.

I do not want to be put in the same position as the members of the British Columbia Legislature, who have to file a report with the assembly every six months saying that they own two shares in Bell Canada, 1,800 shares in some gold mine and some vacant lot, and then six months later that they have sold six shares and bought 13 more and go through the whole thing all over again.

When we talked to the BC members, all of them from all parties said it was just a charade; it was just a time-consuming charade. I do not want a member of the Legislature to get up to say: "I own a small business and we are going to pass a law here that is going to"--what is that tax law called?

Mr. Chairman: Land speculation tax?

Mr. Mancini: No, when we eliminated the tax on small business, what was the term we used? A tax holiday. A small business operator, for example, would get up and say: "I operate a small business in a small town in southwestern Ontario. My business is profitable. I feel one way or another about this small business tax holiday. That is going to put more money in my pocket. I am voting directly for that and, therefore, that is a conflict of interest."

As soon as that happens, the whole thing is blown wide open. Everybody will be groping and grabbing to find out whether he is in conflict of something. As soon as someone does not stand and make this declaration on everything that comes before the House, he or she may be under political attack. I do not think we as members would do it to ourselves, because I think we understand the system and how it works. But back home, before, during or after an election, somebody might say: "Ah yes, the member for"--

Mr. Chairman: Upper London.

Mr. Mancini: --"Upper London stood up and declared the fact that he was in conflict, but you did not. He declared because he is a small businessman and he did not want to vote on the business holiday, but you own 2,000 shares of an organization that owns six nursing homes and some legislation went through the House to improve whatever per diem you get and you voted in favour of that." I am telling you, it is going to be a mess.

Mr. Chairman: Since it was Mike Breagh who brought it up in the House, can we also defer this until next week, until Mike gets back, to get his thoughts on it?

Mr. Mancini: Certainly.

Mr. Chairman: It was his request of the Speaker for clarification that originally led the Speaker to refer that to this committee. Can we leave it?

Mr. Watson: I am with Remo. I had part of the same discussion in British Columbia as you did, probably in the same circle. I got the idea that they would rather not have done it the way they are doing it.

Mr. Mancini: That was from everybody.

Mr. Watson: From everybody, no matter which party one was in.

Mr. Chairman: Shall we put that off until next week? Is there anything else you want to bring up this week?

Mr. Watson: Are you going to collect the reports, so they are not prematurely released?

Mr. Chairman: We might as well. We will adjourn until next Thursday at 10 a.m.

The committee adjourned at 11:58 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

APPLICATION FOR PRIVATE LEGISLATION BY THE
REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

THURSDAY, OCTOBER 18, 1984

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Charlton, B. A. (Hamilton Mountain NDP)
Cureatz, S. L., (Durham East PC)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Kells, M. C. (Humber PC)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Substitutions:

Allen, R. (Hamilton West NDP) for Mr. Breaugh
Gillies, P. A. (Brantford PC) for Mr. Rotenberg
Hodgson, W. (York North PC) for Mr. Cureatz
Piché, R. L. (Cochrane North PC) for Mr. Villeneuve

Clerk: Forsyth, S.
Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service
Revell, D., Legislative Counsel

Witness:

Plant, R. H., Solicitor, Regional Municipality of
Hamilton-Wentworth

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, October 18, 1984

The committee met at 10:35 a.m. in room 228.

APPLICATION FOR PRIVATE LEGISLATION
BY THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH
(continued)

Mr. Chairman: I see a quorum now in place with seven members. We have a letter in front of us. I refer you back to last week to a letter dated October 11 from the Clerk of the House, whereby he referred to us under standing order 66(b) an application for a private bill from the regional municipality of Hamilton-Wentworth. Under the existing standing orders, the applicant for a private bill lodged with him a declaration proving publication of the notice.

Under standing order 66(b), the Clerk can refer to this committee any applications that in his opinion do not comply with the standing orders. He has done that under that standing order believing, according to his letter, that this private bill is not proper subject matter to go through the legislative process, since it amends a public act, the Regional Municipality of Hamilton-Wentworth Act.

You will recall that to assist the committee with its report to the Clerk, last week we asked Mr. Revell, a legislative counsel, to give us an opinion. I think the members have received that at their offices, except for Mr. Watson whose office is further away from the post office. However, I think Mr. Watson has now had an opportunity to look at the opinion of legislative counsel as well as a letter that was received from the Minister of Municipal Affairs and Housing (Mr. Bennett).

The members have seen the opinion. Do they have any comments?

Mr. Allen: Mr. Chairman, I am substituting for Mr. Breaugh this morning, but I am also here because I have been asked to carry this bill in the Legislature, if it reaches that destination, on behalf of the regional municipality of Hamilton-Wentworth.

I would like to make some general comments with respect to the covering letter to the chairman from Mr. Bennett, which I think everyone received, and also to make a few comments on the opinion of legislative counsel, if I might. I think probably my colleague the member for Hamilton Mountain (Mr. Charlton) will want to make some additional remarks.

Mr. Chairman: I am sorry to interrupt. Might I mention that last week the committee agreed that we were not going to get into the merits of this matter, even though the vice-chairman has

said that the chairman will be unable to succeed in that. I want to draw your attention to the fact that what we are dealing with today is whether this is the proper procedure for this bill, and not the merits or the substance of the private act.

Mr. Allen: Mr. Chairman, I intend to confine my remarks to the procedural question. I think you will recognize that from time to time procedure and merit are intertwined, and I may stray momentarily. None the less, the whole drift of my argument is going to be procedural.

I want to react first to Mr. Bennett's covering letter, in which he appears to be making the point that private legislation is inappropriate with respect to the regional municipality of Hamilton-Wentworth inasmuch as that is public legislation.

However, it strikes me that in his first paragraph he makes the point that the legislative provisions of that act are unique to Hamilton-Wentworth. Therefore, the question of public legislation, which deals with matters that are of very broad concern and relate to all members of a given class that will be affected by the legislation, appears to me to suggest that, inasmuch as this is a unique piece of legislation, when the region approaches and makes a request for legislation by any route, it is legitimate in the terms of Erskine May and the other references that come later in the legislative counsel's argument.

10:40 a.m.

It seems to me that there is no general class that is being affected by this proposal inasmuch as the various acts that govern established regional municipalities are different. They are not uniform pieces of legislation in every respect. Therefore, I think there is at least a presumption that it is reasonable to proceed by a private bill in this case.

Second, I would also like to comment with respect to the last sentence in the first paragraph of his letter, "In my opinion, this process has worked well and should not be bypassed by means of an application for private legislation." May I say that is precisely why the region is using the private bill route.

In the past, public legislation has not worked well for the region. It has not worked well with respect to the question of the construction of the board of commissioners of police, which for some time it has wished to see altered in the direction that would make it a body that was accountable to those who pay the shot for that institution. In other words, a question of basic accountability is at stake. It is a big and important issue, but none the less, it is asking something it has asked for some time and to date has not secured any redress.

Likewise, with respect to the Limitations Act, this has been something that has been asked not only by the region but by the provincial association of solicitors for many years. The procedure of following the amendment of public legislation by another route has not succeeded and therefore, with good reason, this procedure

is being proposed. As I say, it would seem in the first instance to be reasonable, given the uniqueness of the act governing the regional municipality of Hamilton-Wentworth.

On this note that there is no point in raising it again through private legislation because the Legislature has dealt with it, either recently or not so recently, and that the present status of affairs in these several issues represents a collective decision of the members, that does not mean that the collective decision cannot change, given the presentation of either further evidence or further reason. Therefore, the argument that inhabits that letter, that it has been before the House and the House has not seen fit to pass it, is hardly a reasonable argument for Mr. Bennett to be advancing.

In response to the legislative counsel's opinion, which is well presented, clear and obviously makes a number of very good points in the course of developing his argument, as I go through it, I note some very interesting observations.

First, there are no relevant decisions of the Speaker in Ontario to guide us in this matter. It is necessary for us to move elsewhere. When we move elsewhere, there is a common thread among the authorities that are used. Beauchesne, May and Ilbert are among those that are cited. Ilbert says, "It seems impossible to lay down a hard and fast rule as to which subjects should not be dealt with by private bill."

After some extensive quotation from May, the following is found in the last paragraphs on page 4 on the citation from May. "No rule, however, has been established which precludes the promoters of a private bill from seeking the repeal or amendment of public acts." The judgement on this matter has to do a good deal with the nature and degree of proposed repeal or the proposed amendment in question.

Since there does seem to be a significant degree of doubt that hangs over this whole issue, it does seem to me the doubt ought to be and normally is in our parliamentary system resolved in favour of the subject rather than in favour of the government. Therefore, that is a further ground for allowing this particular bill to proceed.

When one comes to the application of the general principles that have been noted above in the authorities cited, the legislative counsel moves rather quickly into his applications and the applications are stated pretty broadly. I feel again that some doubt hangs over the question of whether the application has taken all of the issues into account and how far the proposals change, alter or totally reverse existing provisions in legislation.

Obviously point 1 is irrelevant, because it says, "All of the legislation related to the three matters at issue is found at present in one public act." We have seen in general that the authorities say it does not matter that it is a public act, that a public act may be amended by private bills under certain circumstances; so the first point is of no consequence.

Two of the matters in the issue deal with the constitutional election of local governing bodies. That is true, and it has been cited in certain authorities as being one of the main grounds of concern about private bills, although again I would note that they do not absolutely preclude the use of a private bill in that matter but suggest it may be unwise.

I am suggesting that inasmuch as the act that established the regional municipality of Hamilton-Wentworth is a unique piece of legislation and inasmuch as the circumstances of the different regional municipalities are very different, there is reason to think there is no problem in having a diversity of methods of election of the regional chairmen, for example, and that it is therefore proper for legislation of this sort to come forward, especially since no redress has been given to the municipality in its previous attempt to secure the election of the regional body.

I might add parenthetically for the benefit of the committee that a petition of the region taken within the past two years, a petition that numbered something in the order of 8,000 to 9,000 names, found that more than 90 per cent of those approached were in favour of this particular change in the regional municipal act.

The point I want to stress is that this decision would not affect the way in which other regional municipalities select their regional chairmen. It is a matter that can obviously be as diverse as the regional municipalities themselves. Since there is a great difference between, for example, Metropolitan Toronto on the one hand--the numbers involved, the scale of the issues and so on--and the regional municipality of Hamilton-Wentworth on the other, I suggest there is reason in the request and the uniqueness of the act permits us not to entrench in public policy beyond the region itself.

It is suggested that in each of the three cases public policy would be completely changed. I submit that this is not the case; I think each is different in that respect. The request for the election of a regional chairman is an exception. It is not a complete change of public policy; it is an exception for this one regional municipality, and my previous remarks govern my observations on that.

Second, I would suggest that the others are important changes, and perhaps especially the changes to the Limitations Act. But both of these other two have been sought for some time by other means, and we have not had an adequate response from the Legislature to it. I see no reason why the subject ought not to be permitted to persist in any way that is reasonable in the pursuit of the objectives outlined in those other two items.

The other matter that the regional municipality is petitioning about has to do with the way in which water rate defaults are handled. That is not addressed in the course of this judgement, so I am not at all sure what legal counsel thinks on this question. It appears to me a very reasonable kind of proposition and something that could be a significant change, if not an overwhelming one, in public policy.

10:50 a.m.

Item 5 reads: "The Regional Municipality of Hamilton-Wentworth Act is regularly amended by the public legislation. This suggests an ongoing public policy interest in the legislation related to the regional municipality."

All I have to say once more is that while it shows an ongoing public policy interest, there has not been much effect with respect to these matters in question. The subject simply feels the importance of pressing the issue on yet another plane. I have suggested that is quite legitimate and certainly is not overwhelmingly ruled out by the arguments submitted by legislative counsel.

Item 6 reads: "The application if approved would enact legislation having a broad scope that would not be published as part of the public law."

I presume the implication is that nobody would know about it and therefore it would apply without people's awareness. In one respect, I find that a curious argument. It may suggest that we are hidebound in our institutionalism. The government surely has ways of communicating changes accomplished by private bills just as readily to the public as it does those accomplished by public law.

For the moment, let me rest my argument on those procedural arguments. My colleague may wish to make some further remarks.

Mr. Charlton: Mr. Chairman, I would like to start out by saying I concur with the comments of my colleague the member for Hamilton West and I have a number of additional points I would like to make. I will also attempt to restrict my remarks to the procedural questions and not to the merits of the bill itself.

First, to deal with the minister's comments about the fact that the issue was dealt with by opposition amendment in recent legislation and defeated, that is irrelevant, as my colleague suggested. There are a number of issues we could cite that have been introduced, debated repeatedly year after year and have been accepted eventually as public pressure brings the majority of votes in the Legislature to its side on those issues. I think the chairman understands that has been an ongoing thing in the political process of Ontario.

To add to that, this is an issue in legislation that creates a procedural problem for bodies that are not universally the same in Ontario. Normally, legal counsel is telling us, it is essentially the government's responsibility to bring amendments to public legislation. In a democratic process, when the general public in a majority sense has reached support for that amendment, that is where the government will ultimately bring the legislation.

What we are talking about here is a piece of legislation that is not universal in its coverage or application and therefore leaves the regional municipality of Hamilton-Wentworth, or any other regional municipality for that matter, in the unenviable and

untenable position of never being able to achieve the mounting of public pressure to ultimately bring forth the changes in legislation, because it is piece of legislation that is unique, specific and local in nature.

Because, as my colleague has suggested, the regions in this province are very diverse, not only in political makeup but also in size and in the number of variations in structure, it is unlikely that any two regions in this province are ever going to be looking for exactly the same kinds of structural amendments in terms of political makeup and other questions they may deal with. That leaves the regional municipalities in isolation in relation to the legislation that governs them.

As well, a number of things have been pointed out by the legal counsel in his opinion. My colleague has dealt with a number of them. There is one item I would like to specifically deal with: ,

"The Regional Municipality of Hamilton-Wentworth Act applies to the regional municipality and six area municipalities having a 1982 population of approximately 414,175 people. The act may be seen to have extremely wide scope."

It does have extremely wide scope, but in the context of general public legislation, it does not have the scope that is necessary to bring the overall public pressure to bear on the administration in this province and the minister responsible for an amendment in an overall political sense.

As well, I should point out that the regional municipality requesting this legislation is made up of representatives from each of those six municipalities. Those representatives are responding to the demands of the constituents within those six municipalities.

In effect, what we are doing by having this procedural debate is thwarting the democratic right of the people in the Hamilton-Wentworth region to assess what they have in terms of a political structure for regional government and to seek its amendment.

In addition, the chairman is well aware that to grant the request of the regional municipality of Hamilton-Wentworth for private legislation does not in any way usurp or negate the ultimate authority of this Legislature. It merely allows the regional municipality on its own to present its position to this Legislature.

The chairman is well aware--and if he is not, he will be in a moment--that if this committee decides against the request from the regional municipality of Hamilton-Wentworth for private legislation, this piece of legislation will be introduced next week by a private member and will come before the Legislature anyway.

The difference in the procedural context--this is what I am trying to refer to here--is that when it is introduced as a private member's bill, as opposed to a private bill, the member is

perceived to be the initiator. In the case of private legislation, the regional municipality is perceived to be the initiator. For the debate, that creates a different face and reception, if you like, in the public process in the Legislature.

In the case of a private member's bill, the private member can state that he is supporting the position of the regional municipality but that is never quite clear. In the case of private legislation, it becomes very clear that it is not just a private member supporting that piece of legislation but a democratically elected body which has requested a change in its structure both as a result of its own deliberations and assessment of the existing structure as well as an assessment of public opinion in the jurisdiction it is required to represent.

11 a.m.

Allowing this request to proceed as a private bill, as I have suggested, does not usurp or negate the authority of the Legislature; it merely brings the issue before the Legislature. The Legislature still has the full authority to debate the piece of legislation and to pass it or defeat it based on the merits and the ramifications of that particular request. It does not in any way alter the ultimate authority of this Legislature to be the creator and mother of local governments in the province.

What we have is a situation where a regional municipality has been attempting for some time, in a legitimate way, to get a number of issues before the Legislature by requesting the ministry to bring in amendments to public legislation on those issues. It has been unable to accomplish that end through those normal routes and is therefore looking for the next most legitimate way, from its perspective, to put its desires clearly before the Legislature for debate and decision.

As I suggested, if this request is turned down, the legislation is going to end up before the Legislature anyway in the form of a private member's bill; but that is the third choice in the process of legitimizing the request of a regional municipality simply because of the traditional ways that private member's legislation is perceived over and against private legislation and over and against government initiative on public legislation.

For those reasons, the request does not upset the normal operation of due process and ultimate authority of this Legislature. It simply allows for the regional municipality of Hamilton-Wentworth to have a method, on its own volition, of putting the issue before the Legislature for debate and decision.

Mr. Watson: I will try to stick to the principles rather than the facts of the case. It is difficult to stick to them, as the opposition members have said.

From my own history, I will admit to some ignorance when I came into this Legislature. It took me a little while to find out the difference between a private bill and a private member's bill. I confess that before I came here I did not know the difference. I

knew there was private legislation and private member's legislation, but I had not previously had to deal with the subtle difference between them.

My understanding, and I concur with the legal opinion given here, is that any bill which attempts to change the principle or the philosophy of an act of the Legislature should not be done by means of private legislation if it is a matter of adding to, deleting from or in some way changing something for a specific organization--I guess they are usually but not necessarily municipalities--something that is specific to a particular group.

As to the proposal that Hamilton-Wentworth wishes to put forward here, there are alternative ways. I would have more sympathy for putting it as a private bill if I felt this was the end of the line and there were no alternative. I was pleased to hear Mr. Charlton say that if it is not allowed to continue as a private bill, it will appear as a private member's bill. Therefore, this is not the end of the road. There is an alternative.

What I have to question, and I have to try to stick to the principles rather than the facts, is that any municipality that wants to change its legislation has the opportunity through discussions with the ministry to get it to introduce changes to the act, and that is done.

Obviously in this and other cases there is not always agreement. That is part of governing a province such as this where not everybody agrees. The federal government does not always agree with the provinces and the provinces do not always agree with the municipalities. Sometimes you can have a legitimate discussion with a legitimate different point of view, and not everybody agrees with you. That does not matter. There are still things on which you do have agreement.

The principle involved here with the facts says to me it is not a matter for private legislation. As a matter of principle, we should respond to our original request to convey the message that we do not feel that matters of this type should be brought before the Legislature by means of private legislation.

A municipality or any other group that wants to have something of this type or anything else different can have a discussion with the governing authorities, probably with the minister involved. If it is not possible to do it that way, private members' legislation can be introduced, and is introduced all the time. There are all kinds of them on the record where obviously the government does not agree and somebody else disagrees. That is our form of democracy. That is fine. Let us have a discussion about it.

This vehicle, I feel, is one that should be reserved for the truly additional things or the deletion things that can be handled where we do not have to go through a full government process to deal with them in terms of the things I have been involved with in the private bills. It certainly does not affect things that I in my short experience here have dealt with in private bills.

Mr. Charlton: I have just one comment in response to what Mr. Watson said, and I fully understand what he said. The basic objection we have to seeing this kind of request from other than a private member for a change in legislation being forced into the situation of having to proceed as a private member's bill is that the procedure for dealing with private members' legislation is very restricted; i.e., the process of ballot and the restriction of having that ballot process limits the regional municipality's ability to have the issue heard in the first place.

In addition, as you are well aware, the splitting of Thursday afternoons for the debate of private members' legislation between two pieces of legislation or a resolution and a piece of legislation severely limits the full discussion of that issue in the democratic process.

We do not disagree with the comments of legal counsel that these are very important issues. They are not issues emanating specifically or solely from a private member or from private members. They are issues emanating from a fairly substantial regional municipality of 500,000 people and deserve, in the democratic process, full and thorough consideration--not one 20-minute and a couple of 10-minute speeches on a private members' afternoon.

We will take that route as a last resort, but it is not a fully open and thorough consideration of a piece of legislation, as can happen with a private bill at the request of the regional municipality.

Mr. Edighoffer: Reading over this report from Mr. Revell, I noticed something at the top of page 4 which I wonder if he could explain it a little farther. I will read it:

"No rule, however, has been established which precludes the promoters of a private bill from seeking the repeal or amendment of public acts. A private bill is itself an exception, in some degree, from the general law, or seeks for some powers which the general law does not afford, and the fact that it provides for a repeal or an amendment of public acts is far from always being a fatal objection to its being introduced as a private bill."

I wonder if he could at some point explain the final part of that last sentence to me.

11:10 a.m.

The other question I have for legislative counsel is that I still cannot make up in my own mind, and I appreciate all the comments made by the members who have spoken previously, about the effect. I think it is up to this committee to decide whether or not a private bill should go to the Legislature, which I am quite sure would not be approved in the Legislature, and then we get into the merits of it.

I am just wondering, if it were passed in the Legislature, and it was printed with all the other private acts, what really

would be the effect on the municipality from the content of the bill? Would the general legislation be printed here? The public act would be printed here. Which law would really be in effect? That is one question I would like to have answered. Does it really amend it or does it just sit out there?

Mr. Revell: I will take your questions in reverse order. The way the draft legislation is framed in terms of notwithstanding particular provisions of the public legislation, this would mean that the existing section 7, for example, which deals with the regional chairman, in the public act would continue to read exactly as it does now.

The new provision, of course, would be published in the private acts but would not be consolidated. As you are aware from being around here for a number of years, there are some local municipalities that have numerous pieces of private legislation that have never been consolidated. It is very difficult to work with.

The effect would be that we would have two pieces of legislation, one saying X, the other saying Y. In this case, one would say "election by the members of the council," while the other would say "election by the residents of the area municipalities." Both pieces of legislation would appear on the statute books, but because this is later legislation and it is special legislation, the effect of it would be that the later special legislation governs. The words I have used throughout in communicating with Mr. Plant, the regional solicitor and with the clerk are that it has the effect of re-enacting complete replacement of the existing law.

The problem with having law such as this published in two places is that everybody is going to know about the Regional Municipality of Hamilton-Wentworth Act. With respect to the district chairman, that will be a notorious type of provision. When I use "notorious" I do not mean it in an evil sense; I mean well noted in the community.

On the other hand, provisions such as the one dealing with the collection of water arrears are the kinds of things that tend to be lost track of. If there is public act provision that says X and there is a private act provision that says Y with respect to this kind of thing, there is a constant danger--not with which one governs; there is no question about which one governs; it is the later one that governs--that there are going to be two statements of the law, which is a difficult problem in terms of which one you find in the statute book.

I do not know whether that answers your question on that particular point.

Mr. Edighoffer: Are there no other such cases in Ontario?

Mr. Revell: Yes, there are. There is no question that we have cases. That is the point that is being made in the opinion. Every private act is to some extent amending or repealing. The

city of Toronto's private legislation gives it countless exceptions to the general public policy. Here the city of Toronto faces the fact that its powers are set out in a general municipal law statute designed to affect something like 800 municipalities in Ontario. I stand to be corrected on that, but it is somewhere in the neighbourhood of 800.

We have a general statute designed to deal with 800 municipalities. There is no question in my mind that in the case of the city of Toronto, the city of Hamilton, the city of Kitchener-Waterloo, whatever, each one of those is unique, partly because of its size and partly because of the particular problems that come up. Therefore, the general statute may, in so far as it applies to them, have to be somewhat amended.

I should not just use the examples of the large municipalities because of the Municipal Act being such a general statute. There are cases where it does not particularly apply to the very small municipalities. I believe any of the members of the committee who come from smaller municipalities have had some experience with private bills because, again, they have unique problems.

Here we are dealing with the one piece of public legislation which, as part of public policy, was created in this particular manner. So we are not trying to deal with a large mass where there are particular problems. We are dealing with one body of law, i.e., the regional act.

Let us assume that by public policy here I also mean government policy. The policy has been that we will create, and we is not me, a regional government. That is its full statement. Yes, it has provisions in common. If you take a look at the Regional Municipality of Durham Act or the Regional Municipality of Peel Act, you will find there are common provisions. You will also find, if you look at any of the regional acts and the County of Oxford Act, which is very much like the regional acts, that there are unique provisions.

Many of those unique provisions have resulted--and I am sure Mr. Plant will confirm this--from a consultative process. That is where the region or the county has requested particular changes, increases in powers. The other regional municipalities are not the least bit interested in them, so you do find these unique variations throughout the municipalities.

Here, again, is the fact that we now have the region coming forward saying the consultative process is not working. What you have, I think, is something a little different; that is that--let us use the term Legislature here because it is a general thing--because the Legislature has not chosen to enact legislation, partly probably because of government policy--I mean, a private bill was defeated--dealing with the particular issues in question here, rather than saying the government is not responding to the regional municipalities' requests, you can also say there is response in the fact that nothing is happening. Not every request leads to an action.

For example, the fact that there is no bill in the House--ask me the question just like you would your children. If a child asks you if he can go to the movie theatre and you say no, that is the end of the matter. But if he asks you if he can go to the movie theatre and you say yes, then he says, "Can I have the keys to the car?" The process is ongoing. But the no answer is a no answer and it should end the question, I guess, in many cases.

Mr. Charlton: Except that the child has the right to slip out the back door and go to the show anyway.

Mr. Epp: I am not sure he has the right; he may have the opportunity.

Mr. Revell: Where have I got so far? I guess I have dealt with the first question at some length. I want to deal with the comment at the top of page 4.

I believe that it is absolutely true that there is no rule with respect to this kind of application. The reason there might be no rulings in Ontario on this particular matter may have do with the fact that we have set up fairly elaborate review procedures dealing with private bill applications.

11:20 a.m.

Maybe Mr. Allen is fairly new to the process--I am not sure whether he has sponsored a private bill before--but the procedure goes like this. An application is made, the bill comes to Mr. Lewis and through his office eventually the draft bill ends up on my desk. Sometimes--in most cases, I would say, with the municipalities--the application comes to my desk first.

The bill is thoroughly reviewed in terms of its drafting, and if it is a simple matter, usually drafting changes are made. The draft bill is then circulated throughout the various ministries concerned. That matters not whether it is a municipal private bill or a corporate private bill; it goes to the various ministries concerned. It is first of all to serve notice on the ministries that there is legislation that may affect their general policies. It is also because the ministries have a great deal of expertise in the various matters being applied for.

It not only serves as notice but it also often serves as a method whereby the private legislation is improved in terms of its wording--the focus is narrowed down. Sometimes the focus is broadened because, after consultation with the ministry officials, even though somebody has applied to do X, he has to have powers A, B and C to accomplish X.

Part of the screening process is where I or other people in the process express opinions along the way. This is one such case. I have been studying private bill legislation fairly actively for some eight years now, and I am fairly familiar with the quotations that are set out in this paper.

In fact, one matter that is always considered when a private bill application is submitted is, how does it fit against these criteria? I would say this is the first time where the criteria have been applied, and after discussion with the applicant, the legislation was withdrawn. I can think of only one other example where there was a question, and I cannot even remember what happened to it. I think they just did not proceed any further. In fact, it may have been that there was a government bill already in the House on the same subject matter.

In any event, it is the screening process that often leads to the fact that there has not had to be rules. This is not something I just set up; this is a system that has operated in Ontario for many years.

The fact that there are no hard and fast rules does not mean there is not a rule. It is a traditional jurisdiction of the Speaker to determine whether a public bill or private bill may proceed. In Ontario, I would submit that any bill may be introduced as a public bill; this is unlike some other jurisdictions.

To my knowledge, and the clerk of the committee has confirmed this to me, there has never been a case in Ontario like this one, where we have got to this stage. The fact, though, is that if this had gone forward into the House, any member could have risen and asked the Speaker the question and he would have had to make a ruling on it. The question arises whether this is in contravention of the standing orders, because what has been applied for is not even a private bill in the first place.

I think you have to look at this not in terms of one particular issue. I list six criteria against which the bill should be measured, and there are possibly others that I just have not even thought about. If you started thinking about it longer and harder, you might find other reasons.

I have listed the six subjects; they do not all apply to every one of them, but they certainly apply in some measure to the various ones.

If there were only one issue that was in question and only one of these criteria was being violated--for example, paragraph 1 on page 4 says all the legislation is found at present in one public act--you might say: "Well, so what? It is just one." But then you start looking and you say, "Just a second, there is more to it than this." Two of the matters deal with those traditional issues that May and others find to be worrisome; public policy as reflected in each act would be completely changed and so on. We can just go through each and every one of them.

It is the cumulative effect of the application of these general principles that leads to my conclusion or my opinion that these three subjects are not the proper subject matter of a private bill.

I do not have the same concerns about the provision that deals with limitation periods. You will notice that there are four subject matters; three are before this committee. The one dealing with the limitation periods is slightly different, even though it is caught by one of Ilbert's points. You will notice that it says on page 3 of the paper at the top, "Certain principles should be observed, such as that a private bill should not, except for very strong reasons, deal with certain subjects," and one of them is the administration of justice.

Limitation periods are most definitely part of the administration of justice, but here there is general law applying throughout the province. There may be very particular problems that relate to the regional municipality of Hamilton-Wentworth that, for whatever reasons, are important. It will not even apply to all 414,000 residents; it is going to apply to that land the region owns. So every time you start looking at the one particular, one, it gets a little narrower; it gets further and further away from the general principles.

Whether or not the region's application on that point should pass into law is purely a matter to be decided on the merits, I think. I am subject to challenge on anything here, but this is one where the merits can determine the issue. There is not one clear set of principles.

These others are, I think. As you add up the telling points, I come to the conclusion that this is one of those cases in which the peculiar vigilance should be exercised. That is about all I can say about it, which is probably too much.

Mr. Charlton: On the latter reference that Mr. Revell made, I understand the reference to Ilbert. We should also make it clear, though, that the quotation from Ilbert was made in relation to a municipal structure that existed at the time.

The regional municipality legislation we are attempting to deal with here is something new and completely different. We would not be here asking for private legislation to amend the Municipal Act from the regional municipality of Hamilton-Wentworth if that change was going to affect the entire province. I think we all concur that that is a matter of the larger public concern and is not appropriately dealt with in the form of private legislation from a municipality or regional municipality.

We are dealing here with references where the judgements were made on something that existed at the time. In other words, the interpretations and recommendations made by Ilbert and May and others were made in commenting on something that existed, i.e., the more traditional municipal structure.

11:30 a.m.

What we are dealing with here is a totally new creation. Regional government may not be unique to Ontario, but the form of regional government we are dealing with here is specifically unique to Ontario and, in many instances, unique to the regional municipality in question.

(Pg. 14A Follows)

From that perspective, I would refer again to the last sentence of the quotation from Ilbert: "Certain principles should be observed, such as that a private bill should not, except for very strong reasons, deal with certain subjects," the last of them being "election of local governing bodies."

What I am saying is that because of the uniqueness of the situation and because we are talking about a new structure that was created a decade ago which was untested when it was created, we have very strong reasons for the exception.

Mr. Chairman: Do you have a remark, Mr. Revell?

Mr. Revell: I do not know whether these are matters I can respond to because they are matters of opinion. I was asked to prepare an opinion, which I have done.

Mr. Chairman: Do any other members wish to comment?

Mr. Allen: I note that it says "strong reasons." It would be interesting to hear the legislative counsel remark on what constitutes strong reasons. I think several of the issues in question do raise very important principles that constitute strong reasons.

In the case of the desire of the regional municipality to have a generally elected chairman, the strong reasons, first, reside in part in the fact that has been a request by the region itself through its official bodies. Second, the public itself, in the one attempt to test public feeling on that question, has overwhelmingly indicated it is in favour. Third, the principle of the importance of responsibility and accountability of the chief officer of the region to his or her public is a very strong reason.

With respect to the amendment for the board of commissioners of police, I note that at one time the arrangement for membership of that body was two regional representatives, two Queen's Park representatives--in other words a balanced authority--and a membership of a single judge as a sort of outside party to break the vote when it was two-to-two.

That was recently changed against the will of the region, it would have to be said. The government must in its own wisdom answer as to the reason, but it was changed in a curious fashion and against a very important principle in public affairs. It was changed so there were now two regional representatives, three government representatives and no judge in a situation in which the funding of the body in question comes entirely from the region.

You have an anomaly in this latest change where the weight of representation derives from the body that is least responsible, namely, the government. I submit that is a very strong issue, a very important principle and that the reason, therefore, is a very strong reason for securing the change.

The other two matters have to do with the kind of injury the public suffers in Hamilton-Wentworth and perhaps elsewhere. I

submit to you that, if one cannot get those important injuries remedied elsewhere, then the private bill is an appropriate route.

I note that with respect to water rate defaults the region has lost considerable amounts of money over time by virtue of the fact that the rates are not considered in the same category as taxes, and therefore cannot be attached to the responsibilities of an estate.

I admit that is a more general question, but I see no reason in my own mind why the remedy cannot begin somewhere in a very particular way and spread. It does not seem me to have to be established only by way of public law.

The same argument essentially applies to the Limitations Act, where there is the rather unusual provision that after 10 years a person who is using public property may consider it his own, virtually by default. That can mean that over time a great deal of property is lost to the region in one way or another.

I submit that it is a very important issue as to whether public property can remain public property or cannot remain public property or whether there is a way by which, in default over time, it can simply be lost through a certain kind of inattention, with no intent that it be lost to the public.

While these latter two questions are rather different in their nature, they are also very important issues and I would like to submit that the principle involved is important in all those cases and that the reason is strong.

Mr. Epp: Mr. Chairman, I very much respect Dr. Allen's analysis of the situation and I can see by his comments he is very strongly in favour of this going ahead. I think, however, in looking at this, we have a number of principles and the problem in dealing with principles is that they do not always agree with each other. They do not always support each other, and we have some conflicting principles here.

I am not sure whether we should have private legislation that would overrule public or government legislation. In discussing this with some of my colleagues, I think there are a number of grey areas. Maybe there should be a further study on this whole matter. I appreciate the work Mr. Revell and others have done on this.

Keeping that in mind, and keeping in mind I want to make very sure that, when I vote, I vote having the most information in front of me, and also keeping in mind that I want to do the right thing because it has implications for other matters that come before this committee and other committees and the Legislature, I respectfully submit to you, Mr. Chairman, I think we should defer this thing for at least one week to give us all an opportunity to consult further on the matter before a decision is made.

I therefore move that it be deferred for one week and discussed within the next few weeks so it can come to a

conclusion, so it is not drawn out, but we still have a chance to do some further study on the matter.

Mr. Chairman: Mr. Epp moves that consideration of this matter be deferred for one week.

Mr. Watson: I agree with those comments about giving this committee, and not only the committee members, an opportunity to consult. You mentioned the mail system. I did not get this report ahead of time and I would like a little more time. I think we have had spectators this morning who may want to look at it and reconsider and so forth. I am going to associate myself with Mr. Epp's remarks and support his motion.

Mr. Gillies: Ditto, Mr. Chairman. I have just had my first opportunity to read over this material. I think the points Mr. Epp made are very valid.

At first glance it appears to me the provisions in this private legislation could be seen as precedent-setting for other regional municipalities, so you are not only talking about a half-million-odd people in the Hamilton-Wentworth area but the possible implications it might have for several million people across the province.

Again at first glance, my feeling is that public legislation should prevail, but I think an opportunity for further study would be most appropriate.

Mr. Edighoffer: I will agree with the suggestion and motion Mr. Epp has made. I came here this morning feeling I would support the recommendation, feeling that public legislation would supersede private legislation, but I think I have been informed differently. I really feel I want a little more time to review it.

Even though the process of private legislation certainly gives every person in the municipality the right to make a submission to a legislative body, I would still like to think whether this is the type of precedent I would like to see in the Legislature.

Mr. Chairman: Are there any other comments before we vote on Mr. Epp's motion that this matter be deferred one further week for the consideration--

11:40 a.m.

Mr. Epp: Before you vote, I said one week but I want to make sure there is some flexibility there because I want to make sure the representatives from the region can be here next week. If it is necessary to defer it for two weeks or three weeks in order that everyone has an opportunity to be here, I would so submit.

Mr. Chairman: I was going to deal with that further procedure when we passed that first motion. All in favour of Mr. Epp's motion?

Motion agreed to.

Mr. Chairman: What does the committee wish us to do with regard to representation? We have heard by letter from the Minister of Municipal Affairs and Housing (Mr. Bennett). We have with us this morning the regional solicitor for Hamilton-Wentworth.

What does the committee wish us to do with regard to hearing from the "different sides"? Do we want to request one or more of them to come in front of us or to contact us or to write to us prior to next week?

Mr. Epp: If I may, Mr. Chairman, can you give us a clear indication of who might want to make representations if we did open it up?

Mr. Chairman: It is indicated that Hamilton-Wentworth would. I would presume the Ministry of Municipal Affairs and Housing might want to at least be present to either expand on or reiterate their written letter.

Mr. Watson: I would like to know, perhaps in the spirit of trying to get this done, the status of the negotiations. There obviously have been meetings between Hamilton-Wentworth and the Housing ministry and I do not know what was said in those meetings or negotiations or their status. I would like to know that.

I would really hate to think that we have a full-blown discussion on the subject matter which will then, unfortunately, be used as a precedent for everything from now on in. This is why I think we have to be careful about this committee getting into that problem.

Mr. Gillies was involved in the private bill when we had to cancel an Ontario Municipal Board hearing one time. My comment at the end of that meeting was, "I think we have had the OMB hearing today." That is really what we did.

I know I asked this in the last meeting and I am doing the same here, but how do we keep from getting into the subject matter to establish a principle? Maybe it is impossible.

Mr. Chairman: It is still our mandate only to consider the reference from the Clerk of the House on the procedural matters only, and we cannot ever lose sight of that fact. Mr. Charlton, did you want to say something?

Mr. Charlton: In addition to Mr. Epp's and Mr. Watson's comments, I think it would be appropriate if we attempted to have here for comment on the procedural questions--we have had legal counsel and I think we should have legal counsel here again--as well as a representative of the ministry and of the regional municipality so we can hear from them, as Mr. Watson has suggested, the procedural issues at stake in the context of their point of view.

Mr. Chairman: In anticipation of anything else, maybe nothing else, it is understood that it will only be those people and not any other municipalities that want to tack on.

Mr. Epp: We will deal with the principle and not with the merits.

Mr. Chairman: Right.

Mr. Edighoffer: I am still thinking about that; I am a slow thinker.

Mr. Watson: I am too, and I have not got the answer.

Mr. Edighoffer: Last week in our meeting, I was very definite that I just wanted a representative of legislative counsel here. For this discussion this morning, and we could have a full-blown discussion, we have already received written comments from the minister.

I would be just as happy to have a written comment from the solicitor for Hamilton-Wentworth in advance and have only legislative counsel here next week. That is just my thought.

Mr. Chairman: Are there any other thoughts?

Mr. Allen: Mr. Chairman, it seems to me that as we are working this over we are all impressed with the fact that we are facing the resolution of a precedent of some importance and, therefore, it is a matter to which we ought to give good and full consideration in all of its procedural ramifications.

Therefore, I would suggest it might be appropriate for the solicitor for the regional municipality to submit his own arguments in writing in advance and that we meet again on this question sufficiently down the road--perhaps more than one week, perhaps two--to allow that to happen, to allow that to be circulated and, of course, to reflect on his reasons, and that he be permitted to be present, along with the representatives of the ministry and legislative counsel, to amplify or respond to any questions that we have.

It does seem to me that the procedural ramifications move into that whole area that I was raising at the end; namely, what constitutes strong reason? That is one of the principles at stake. Sometimes that begins to sound like you are into the substance and merits; I think you really are not, but the content obviously bears upon the question of strong reason. Therefore, I think to that extent that is a legitimate part of our discussion.

That is my suggestion, that we ask for a written submission and, second, that we meet two weeks down the road, if that gives sufficient time for preparation of all parties, to not only reflect on those written submissions that we will receive but also to hear the representatives.

Mr. Chairman: The municipal solicitor is with us this morning. Perhaps it would be wise to ask him whether or not he could have his written submission and be prepared in one week or whether he would prefer more time. Mr. Plant, would you please come to one of those microphones at the end and you might advise us of your schedule.

Mr. Plant: Thank you, Mr. Chairman. I received or had picked up Mr. Revell's opinion yesterday, along with the Hon. Claude Bennett's letter to you. Of course, I have had little time to review this and had an even briefer discussion with Dr. Allen. I would think, considering my other duties--and of course this would be given high priority--a week may not be sufficient to prepare and have it back and distributed so you can meaningfully review it within that time. I suggest the two-week period, November 1 or perhaps a little later in November, at your convenience, would be preferable from my point of view.

Mr. Chairman: Any other thoughts? With the mover's concurrence, we can amend Mr. Epp's motion. Two weeks?

Mr. Plant: That would be ample for my purposes.

Mr. Chairman: Thank you. Mr. Epp, would you move that as an amendment to your motion and make it two weeks rather than one?

Mr. Epp: I would be pleased to, Mr. Chairman.

Mr. Chairman: All those in favour, please raise your hands. That is again unanimous.

Is there anything else to discuss on this matter? No? Thank you very much, Mr. Plant.

For the committee members, what is on the agenda for next week? Mike Breaugh is not here. Rather than start into the conflicts, or several of those other things, perhaps we will not meet next week but meet two weeks from now to carry on with this subject.

Agreed.

The committee adjourned at 11:50 a.m.

ERRATUM

<u>No.</u>	<u>Page</u>	<u>Should read:</u>
P-26	IFC	Substitution: McLean, A. K. (Simcoe East PC) for Mr. Kells

JAS 8N
XC 18
-P62

P-28

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

APPLICATION FOR PRIVATE LEGISLATION BY THE
REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

THURSDAY, NOVEMBER 1, 1984



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breagh, M. J. (Oshawa NDP)
Charlton, B. A. (Hamilton Mountain NDP)
Cureatz, S. L., (Durham East PC)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Kells, M. C. (Humber PC)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Substitution:

Allen, R. (Hamilton West NDP) for Mr. Breagh

Also taking part:

Rotenberg, D., Parliamentary Assistant to the Minister of Municipal
Affairs and Housing (Wilson Heights PC)

Clerk: Forsyth, S.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service
Revell, D., Legislative Counsel

From the Ministry of Municipal Affairs and Housing:

Farrow, R., Director, Local Government Organization Branch

Witness:

Plant, R. H., Solicitor, Regional Municipality of
Hamilton-Wentworth

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, November 1, 1984

The committee met at 10:20 a.m. in room 228.

APPLICATION FOR PRIVATE LEGISLATION
BY THE REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH
(continued)

Mr. Chairman: We have one matter in front of us this morning, consideration for an application for private legislation by the regional municipality of Hamilton-Wentworth. We have with us as witnesses Raymond M. Plant, QC, the regional solicitor for the municipality, and Ron Farrow, the director of the local government organization branch, Ministry of Municipal Affairs and Housing.

Mr. Plant, perhaps you would like to lead off. We have your written submission.

Mr. Plant: Mr. Chairman and members of the committee, I understand the brief I filed with the clerk's office last week has been distributed to you. It largely speaks for itself. I just want to refer to a couple of points.

I would like to start off by saying that Mr. Revell and I agree on one general principle, that the matter before you is not, strictly speaking, a legal matter. Although we provide information and advice for you, the House establishes its own procedures and it is a matter for judgement and precedent, not for legal opinion. What is given here is by way of information and not an opinion, as such, from my perspective.

As I see it, the basic issue before your committee, being a procedural matter, is whether a private bill can amend a public act. This has been dealt with by the authorities referred to by both Mr. Revell and myself. I would like to address that point if I may.

The May text, which is the parliamentary procedure precedent text, is very thorough and gives both sides of the question. I have principally relied on it. On page 906, the matters referred to are headed "Repeal of Public Acts by Private Bills." This question has come up in the British House in a precedent that is referred to on that page.

That case dealt with an amendment by a private act to a public bill, although it is referred to in this section as a hybrid act. I do not know whether that has come before this Legislature, but I understand that if the constituent parts are both public and private in the content of the bill itself, it is called a hybrid act. It was ruled that the objection that this private act was amending this hybrid act should not proceed and the Speaker ruled the objection could not be sustained.

The precedents referred to by Mr. Revell and myself are familiar to both of us. He concludes that on balance the precedents do tend to say that private acts should not amend public acts, unless there is a matter of sufficient importance that affects a locality and that the private act could be more expeditiously addressed in another manner, namely, by a public bill.

I have looked at the same authorities and my conclusion is there is sufficient doubt among the authorities, sufficient cases and precedents going both ways, that it is not clear you are bound by precedent and it is not clear that this private bill should not proceed as a private bill and be dealt with on the merits.

The precedent has been established for a large municipality in Britain. This is referred to on page 3 of my brief, paragraph 4: "Bills concerning only the city of London have generally been private bills solicited by the corporation itself, which desired special legislation affecting its own property, interests and jurisdiction."

That is precisely what is being asked for in the private bill before you. We are asking to have our property dealt with under the Limitations Act. We are asking to have our interests, which are the interests of the municipality as a public body, namely, the collection of water arrears, and its jurisdiction with relation to the appointment to public local bodies and the election of its chairman--in my view, what is being asked for in a private bill would fall within the subject matter of what has been treated in the past, by precedent, as a private bill.

The second and next to last point I would like to make deals with page 4 of my brief, paragraph 7. Again referring to the text of Erskine May, the question was dealt with directly of whether private bills have been allowed to proceed although they deal with public acts--subject matter that has already been dealt with by public legislation--and are contrary to or in conflict with them. The precedent cited there indicates that the private bill was allowed to proceed even though it dealt with matters that had been dealt with in a public act.

I do not think there is any question of the importance of the contents of the bill before you. It is a matter of importance to a sizeable urban municipality in this province, but it is local. We are not asking to amend the general law; we are asking to amend a public act that deals with a local municipality, in this case a regional municipality, many of whose powers concern local municipal powers that would otherwise be exercised by local municipalities.

Many of the provisions of the Municipal Act apply to the regional municipality, and one of them that is specifically dealt with ordinarily by local municipalities is in our private bill; namely, water arrears, a matter that has been shifted to the region by virtue of the public act, the regional act.

Paragraph 7 on page 4 indicates that the House in Britain in 1896 dealt with the Belfast Corporation bill. The complaint or

objection was that the bill dealt with large interests, embraced a large area and repealed important sections in certain public acts and therefore ought not to have been introduced as a private bill.

The Speaker stated that, notwithstanding that it sought to enact that public statutes should not apply or should be partially repealed, "these provisions were not so numerous or so important as to necessitate its introduction as a public bill." There is the question of judgement, but the precedent is there.

The last point I wish to refer to is the question of whether, if the bill were allowed to proceed and were dealt with as a private bill, it would deal with matters that would otherwise have been dealt with in a public act and would not sufficiently be brought to the attention of the public.

10:30 a.m.

I suggest to you that this question can be addressed as I have set out on page 6 of my brief, paragraph 11. In the Revised Statutes of Ontario eight of the volumes do deal with public acts; private acts do not appear there. However, private acts are classified and tabled in volume 9.

If the concern is that there is an objection on the basis of precedent that private acts are not sufficiently brought to the attention of people so the citizens in that municipality are not able to be sufficiently aware of the burden being placed upon them, then I suggest that as part of the private bill, a requirement could be made that it be published in the same way as was done prior to its coming to this committee.

On page 906 of May's text, this question was directly addressed where the repeal of public acts or private bills was dealt with, and the objection was that the act "being passed as a private bill and being of a local character, is not printed among the public general acts, has sometimes," the author states, "been urged as a reason for refusing to sanction this course."

Then May goes on to quote an 1832 precedent where this was dealt with by the city of Bristol. Its statute was being amended by a private act and the ruling of the Speaker was at that time that "no such objection in point of order could be sustained." Notwithstanding that the public act was affected, the private bill was allowed to proceed, to be heard on the basis of its contents, even though it was in conflict.

The only Canadian authority is Beauchesne's Parliamentary Rules and Forms of the House of Commons, which directly quotes Erskine May. I am sure Mr. Revell has this text. It is found on page 259 and it is referred to at the bottom of 5 of my brief: "Private legislation is legislation of a special kind for conferring particular powers or benefits on any person or body of persons, including individuals and private corporations, in excess of or in conflict with the general law." They adopted that text of May without comment in the section dealing with private bills.

In concluding, I wish to say that this draft private bill

before you has been approved by an elected body, representing close to half a million people and as such it is a matter of importance. It deals with matters that have been before ministries of this government for some time, some longer than others, without resolution. If they had been resolved we would not be here this morning.

As a result, the private bill route expressing the intent of these elected people and their will for that area is before you, and because of the division of the precedents we have available to us, out of a sense of fairness it is my submission this bill should be allowed to be heard and decided on its contents. Thank you.

Mr. Chairman: Thank you, Mr. Plant. Are there any members who wish to speak to Mr. Plant, or question him, before we hear from Mr. Farrow? Yes, Mr. Watson?

Mr. Watson: Your municipality has had negotiations with the government. I found one of your statements there interesting. You said they had been without resolution.

Mr. Plant: Yes.

Mr. Watson: What you really mean to say is it did not get resolved the way you want it resolved.

Mr. Plant: No. Well, let us take them.

Mr. Watson: There has been a resolution. The general legislation is there.

Mr. Plant: We had sought public act amendments to the provisions that are in our act--that is what I meant--and those requests have not been resolved. I am not saying the subject matter had not been dealt with by the government. It was.

For example, the composition of the Board of Commissioners of Police has recently been changed. It was in our act from the beginning. Almost from the beginning we had asked the Ministry of the Solicitor General through senior staff of several ministries to deal with that in the way it is in our private bill. It was never dealt with. It was felt--

Mr. Watson: I do not want to get hung up. I suspect it was dealt with. It just was not dealt with in the way your municipalities wanted.

Mr. Plant: It was dealt with before our request, if I can put it that way, but our requests themselves were not dealt with.

Mr. Watson: But when you talk about the general legislation--and I guess it is in that category--are we not talking here about a piece of legislation that is specific to your municipality as it is now?

Mr. Plant: Yes, that is quite correct.

Mr. Watson: The public legislation is the Regional Municipality of Hamilton-Wentworth Act.

Mr. Plant: Yes.

Mr. Watson: It is now specific to your area, and this private bill would amend the bill so that, although it has the title "public" on it, it is still specific to the same effective area.

Mr. Plant: Yes, it would deal with the same area. It is quite true.

Mr. Watson: Does that not put this into a different context than if we were dealing with an act that dealt with all of Ontario? Would that not give it a different context?

Mr. Plant: I think so. That is why there are 10 regional acts and, to a person who has lived with them for 10 years, as I have, they are very different. Some things are common, I grant you. For example, the composition of the Board of Commissioners of Police is common; the election of the chairman is common among all the regional municipalities.

I suggest to you--and my submission is not to this committee but, if it goes on, to the committee that might deal with it--that the merits of wanting to change it are perhaps different for that locality than they would be for the other regions, but that is not a procedural matter. That is merely to say that this is why it is before you now. We are not asking to have all the regional acts amended, only the one for this locality.

Mr. Watson: But you know what the result would be.

Mr. Plant: I do not know. I know what the direct result would be--

Mr. Watson: Okay.

Mr. Plant: --if it were heard, and it is up to the government in the private bills committee to say whether or not it should be done.

Mr. Charlton: Mr. Chairman, just on the point that was raised by Mr. Watson about whether or not there has been a resolution, the senior level of government, being the province, has been asked on a number of occasions to consider a change, at least for some of the items in this bill. In each instance when it has not proceeded to make that change you are referring to that act as a resolution of the issue.

That has basically thrown the issue back to the regional municipality to reconsider, and in each case over a number of years, with considerable change in the councillors who are representing the people of Hamilton-Wentworth, this issue has again been re-established in the form of a request for that change.

So it is not a question of having gone to the ministry once

and been turned down. With at least most of the issues in this bill it is a situation in which the request has been dealt with a number of times by the elected representatives of the people of Hamilton-Wentworth and, as I suggested, in many cases by different representatives, because we have gone by several elections since the original requests were made.

It is an issue where the regional municipality feels it cannot accept the resolution that you suggest as a resolution, which is no action. It feels it needs the changes in order to make its operation what it should be.

10:40 a.m.

Mr. Watson: If I can respond there, I guess the point I was making is that what the municipality was clarifying, and I think we can verify this, was that it did get a reply but did not like the answer. I understand that and I understand the reasons, but they are not applying this route because they cannot get an answer out of the government on whether it is prepared to amend the regional municipality act.

Mr. Charlton: The simple point is that there has been no resolution for the regional municipality of Hamilton-Wentworth of the problems it is trying to deal with.

Mr. Watson: It has not been resolved in their favour.

Mr. Charlton: There has been no resolution of the problems they face either. There has been a resolution of the request only.

Mr. Watson: But they have had an answer. That is the point I am making.

Mr. Charlton: There is still no resolution of the problem.

Mr. Watson: It would be a different problem if they could not get an answer from the government.

Mr. Allen: Mr. Chairman, I have two points, one of which is a question to Mr. Plant. First of all, on that point, it is true there has been representation and it is true there has been a request for action, but I think I recall the legislative counsel himself observing last time, and I use his very words, "Here we have a case where the consultative process is not working."

Some apparently reasonable requests by a major regional municipality on some quite specific issues, which it has petitioned for in several instances for some time, have not been resolved in its favour. I presume the point being made by the member opposite is that, therefore, there is something illegitimate about following another route to try to secure those same ends. Surely the question before us is whether there is another legitimate route, so the point that is made is, in essence, irrelevant to the question. The prior question is whether that route is proper or improper.

The second point he made I want to put by way of a comment and question to Mr. Plant. It appears to me--and I am asking if this is your impression, as someone who has spent a lot more time in this field than I have--there are two rather different species, if one might put it that way, of public acts.

There are the public acts which, as I understand it, are drafted and passed to pertain to a whole class of people, groups, institutions, all of whom are required to conform to whatever the acts lay down. Those acts affect bodies province-wide in their distribution. There is, therefore, some question as to whether private bill intervention is appropriate in those circumstances, because one sets up double standards by the very general nature of the legislation. It is public in that broad sense.

There are also public acts, such as the member opposite referred to, that is, the act that establishes the Hamilton-Wentworth regional municipality, which, while being public acts, have very specific references to particular bodies. Anything one changes in those acts does not, therefore, imply a double standard or a contrary development that impacts on others of the same class, because others of the same class are not affected by that legislation.

To plead the fact that this is a public act in the first sense and to plead the objection that is made to private legislation on that ground is really quite inappropriate if this is the second type of public legislation, which is very specific and local in its application. Am I right in sensing that there are two different kinds of public legislation and that a private member's bill is more applicable and appropriate in the second, and perhaps not in the first?

Mr. Plant: Mr. Chairman, I agree there is that division. For example, when regional municipalities are going to be generally dealt with, the government frequently does this by an omnibus bill, applying similar measures to all 10 regions. That affects most of the people in the province, but not all. Not everybody lives within a region. That affects a very substantial part of the population for a common policy to be followed. There is no doubt in my mind that is a public act, without exception.

Our public act, the Regional Municipality of Hamilton-Wentworth Act, has been amended in the past when other regions have not been amended. One clear recent example is the control of store hours that has been given to our region and not to others. The specific circumstances deal with a certain class of ratepayer in that municipality. That is another class of public bill that deals with a local matter and a class of citizen. It was done by public bill, although on the face of it I can see nothing wrong with it proceeding as a private bill, had the region chosen to go that way.

The region did get a form of response from the ministry for its request to deal with that subject matter, control of store hours, and the government agreed. In this case we are saying that the subject matter of these four parks has been brought, not to one but to several ministries' attention for some time, and has

not had a response that would have dealt with it directly. They said no to what was being requested.

In other words, they did not say, "We do not agree, but here is something." They say the way the public act stands with regard to those four parks should stay and should not be amended by public act. Therefore, we have come by the private act route, which we feel is legitimate because it expresses the clear intent of the representatives of the people for that area.

Mr. Chairman: I think Mr. Revell wanted to say something.

Mr. Revell: Mr. Chairman, I just want to point out that I did not say the consultative process had broken down, which I think was attributed to me. I believe I was putting words in the mouth of the municipality. My exact words were, "Here, again, is the fact that we now have the region coming forward saying the consultative process is not working." I was not saying the consultative process is not working.

Mr. Allen: I apologize if I put words in your mouth. I wrote it immediately after you said it and I did not check Hansard. There may have been a couple of words I missed, but I thought that was the intent of the statement.

Mr. Revell: No. I just meant to say that is one of the reasons they may be coming here.

Mr. Edighoffer: Mr. Chairman, to pursue the consultative process a wee bit, what consultation took place before you drafted the bill, or was the bill drafted and then you went to the ministries?

Mr. Plant: The private bill did not go to the ministries. I think the Clerk's office did make them aware of the application, but you are speaking of the consultative process prior to that. Perhaps I could go through it.

Part I of the draft bill deals with the composition of the board of commissioners of police. There had been consultation with senior staff of the Ministry of Municipal Affairs and Housing. I believe it was before it was called Municipal Affairs and Housing. It was with municipal affairs. There had been consultation on this point since I came to the region in 1974. I had been led to believe that the matter had been discussed a number of times with the minister and also with the then Solicitor General, who is responsible for the managing of boards of commissioners of police.

It was felt that the common policy for all the regions should not be changed and that the request for our region would not be dealt with. We were refused on a number of occasions.

10:50 a.m.

Perhaps I could explain that our region has 15 to 20 legislative requests in various stages at any one time. We come down perhaps once a year with senior staff to deal with what we call our shopping list. We ask the status of them, what the

chances are of proceeding, what can be done to expedite them and so forth. This is one of the older ones on the list I have.

The second one, dealing with the payment of water arrears, has been dealt with by the staff at the Ministry of Municipal Affairs and Housing since 1978 or 1980. There was an amendment in 1979, I believe, as a result of certain representations made by the collective group of regional solicitors in Ontario. We meet quite frequently to discuss regional legislative matters. That amendment was made. We support decisions proven to our satisfaction, but it was not effective and that is why we come back for the additional relief.

On the third one, the Limitations Act, we have been dealing directly with the Attorney General (Mr. McMurtry) on that matter because the Limitations Act has been under his supervision since 1981 or 1982. What we are asking there again is not something contrary, but in addition. We are asking for additional relief for the regional lands, which are considerable in number, to have title to these protected from encroachment in the same way as our regional system.

The fourth, dealing with election of the chairman, is more recent. It began in 1982 and there is a fair amount of correspondence on record from the minister to our chairman on that. None of these four is new. Some are less old than others, let me put it that way.

Mr. Edighoffer: Have you ever met directly with the minister?

Mr. Plant: No, I have not.

Mr. Chairman: Thank you, Mr. Plant. Perhaps we can hear now from Mr. Farrow.

Mr. Farrow: Mr. Chairman, members of the committee, I come armed with the minister's letter and almost nothing else except the experience I have had, over a longer period than I would like to recall, with the definition of local government.

I think the essential point my minister would make is that all through the years of regional municipalities, certainly the government has affirmed and reaffirmed that it takes full responsibility for the public legislation that defines regional governments. That goes for all the regional municipalities in terms of their common elements and in terms of their uniqueness.

Mr. Plant has pointed out that one of the unique amendments was the one Hamilton got on store hours. That came as a result of consultation. That was unique to Hamilton-Wentworth. The government did consider whether it should be provided for all the regions but felt that because Hamilton-Wentworth supported and wanted it, it would go for it in Hamilton-Wentworth. Other regions have not asked for that.

There have been occasions when regional municipalities have voted unanimously in favour of an amendment to their regional act

and the government has turned it down on the grounds that the regional acts are provincial government policy. The minister responsible for that act has to get up in the House and defend it. He will put forward only what he thinks is in the best interests of the definition of regional municipalities.

There has been good consultation over the years with Hamilton-Wentworth. Another thing they were very anxious to have brought into their legislation was the boards of health. We have had a series of regional municipalities take over responsibility through public amendment of the regional acts for the boards of health. Sure there are times when there is a disagreement.

I think my minister would see a very fundamental issue at stake here. As I get into that, there are private bills, but what the minister would like to see is some kind of balance between appropriate private bills and those that contradict or would enter the field of public responsibility. I think the central issue is accountability.

In our form of government, cabinets are elected to propose and take responsibility for public law. If we began to mix that in with private legislation that could amend what the government is taking responsibility for and is prepared to go to the wall with, we could have a serious fudging of accountability, of just who is responsible for the laws that govern the land.

Mr. Watson: I would like to follow up and get your opinion on the point Mr. Allen made, which you listened to. We agreed that there are two general kinds of legislation: that which affects everybody in the province and that which is sort of specific. This regional municipality issue is specific. Would you view a private bill such as has been proposed as somewhat redundant to the public act that governs that municipality now?

Mr. Farrow: Not only redundant but contradictory. As I have stated, and I will try to put it as clearly as I can, the government is prepared to take full responsibility for regional and municipal legislation. That includes people who are upset that they did not get something they wanted. They will take responsibility for that as well as responsibility for those things that have been positively done.

Mr. Watson: But the appropriateness of a private bill is to exempt a municipality or somebody from what is general legislation. That is sort of the overall purpose. What this is doing is changing 100 per cent of that. There is nothing else left. If we change this one, then we change the whole bill.

Mr. Farrow: That is right. We have 10 regional municipalities and a district municipality in Metropolitan Toronto. They all have the same process for selecting their chairman. That is the way the government wants it.

Mr. Watson: What I am saying is that if it went into a private bill such as one of this nature, it would not be changing part of it, it would be changing the whole thing around and changing it entirely. There is nobody else left to be governed by

that legislation, by the regional municipality legislation there.

Mr. Farrow: I am sorry, I am having a little trouble.

Mr. Watson: I guess I am contradicting a little what Mr. Allen said when--

Mr. Epp: You would not dare.

Mr. Watson: --he was talking to Mr. Plant and saying there are two kinds of legislation. I think we all agree with that in general. I think the word he used was "species," or whatever word you want to use--two different kinds. Is not private legislation more appropriate for the ones that are general than public legislation that is specific?

Mr. Farrow: We would much rather have general public legislation so people clearly understand what applies right across the province. Examples of private legislation are things such as the promenade in the city of Ottawa where they had a special situation and they needed private legislation, not necessarily a public bill, to give them a promenade.

Thunder Bay has similar legislation where there is a unique situation and one deals with it by a private bill. It does not affect Sault Ste. Marie or Chatham, but it is unique to that situation.

Mr. Watson: Do we have any private legislation now that affects the regional municipality acts?

Mr. Farrow: I am not aware of any private bill being passed that affected any regional municipality.

Mr. Kells: If you want the Metro chairman to be the Premier, you are going to build Spadina.

Mr. Watson: Okay, thank you, Mr. Chairman.

Mr. Chairman: We will assume that Mr. Kells's comments are sort of asides.

11 a.m.

Mr. Allen: Mr. Chairman, the last point is precisely the point we are at in this whole discussion; namely, that there are no precedents in Ontario law that are significant and, therefore, it is necessary for us to turn to other authorities.

The solicitor for the regional municipality of Hamilton-Wentworth made it quite plain that the authority we turn to primarily, Erskine May, does cite precedent for private legislation with respect to public acts and even with respect to matters that appear not only to create exemptions but also run contrary, even to repeal sections of public acts. On the face of it, it is necessary then to ask why we should not accept that precedent, since it is there.

With respect to the argument Mr. Farrow has made, I think there is perhaps a slight confusion of government and legislature in his remarks. He says governments are elected to take responsibility for public law, and that is true. Government as such does not pass legislation; legislatures pass legislation. It is what passes the legislature that is, in the end, the responsibility of government to enforce and to use as the instrument of public action.

That being the case, presumably the remarks, therefore, raise the whole question of responsibility of governments to legislatures in his remarks.

There surely can be no problem with a government permitting legislation to come before a legislature which it might itself not be entirely in agreement with. The legislature is what it relies upon for testing, if you like, the legitimacy of its own pieces of legislation. Every act that we get in Ontario may be formed by the government, may be drawn up by the government, but it has to go before the Legislature.

What is being proposed here is that another route be followed to get matters before our Legislature. At that point, of course, in our system what happens is that the discipline of government comes into play as to whether that government has control of the Legislature. That is tested every day in the House.

That argument in itself, that governments are elected to take responsibility for public law, begs the question as to how public law gets created in the first place. Public law and law of all kind gets created by the legislature and not by government. Government simply instigates it and puts it before the legislature.

Mr. Kells: That is assuming we have a majority, for God's sake.

Mr. Allen: That is exactly the point, but you do not use your majority as a pre-emptive strike against introducing legislation that you might not agree with.

Mr. Kells: You do not say we do not have it and we do not make the law.

Mr. Epp: Mr. Chairman, I have some comments if there are no more questions of Mr. Farrow. If there are questions of him, I would like to be first on the list afterwards.

Mr. Chairman: Would you like to respond to some of those, Mr. Farrow?

Mr. Farrow: There is a necessity for clarity in our governing process and people should know who is governing. If you take Mr. Allen's logic to its logical conclusion, you could have the Legislature here, which passes law, having initiatives for private bills coming from all sides of the House.

I go back to my central point, accountability and the many not knowing the few who are acting on their behalf. It is very true that the government has to go to the Legislature here and get support for bills, but it is clear, through cabinet solidarity, who is making and proposing those bills. I am just suggesting that to introduce private bills to enter into the whole process of public bills and private bills would seriously and severely damage the whole business of accountability of parliament.

Mr. Charlton: I want to deal with that point, Mr. Chairman. The question of clarity will come before the House regardless of whether this bill goes as a private bill or as a private member's bill. If the bill goes as a private bill, it will not go with the minister's name on it; it will go with the name of a private member on it, the same as a private member's bill.

The electors of Hamilton-Wentworth have a responsibility to fulfil as well as the government has a responsibility to fulfil. They have a responsibility to fulfil to be in a position when they vote, both at the regional level and at the provincial level, to know what they are voting for or against. The process of avoiding dealing with these issues in the Legislature hampers the ability on the part of the electors in Hamilton-Wentworth, both at the regional and at the provincial level, to do that. As long as we cannot deal with these issues, which the people of Hamilton-Wentworth support, in the Legislature and bring them to a vote, whether or not they ever pass, government--

Mr. Rotenberg: The council of Hamilton-Wentworth supports it; I do not know if the people support it.

Mr. Charlton: We have done petitions. We have very significant support from the public on these issues.

Mr. Rotenberg: How do you know?

Mr. Charlton: We have tabled them in the House for your perusal. Obviously, you have not bothered to look at the documents which have been tabled.

The point simply is that we have a regional municipality. Government policy says one thing, but if the issue can never be dealt with and if there can never be a recorded vote, there is no clear indication to the electors in Hamilton-Wentworth of who stands for what. If you want to talk about the issue of clarity, the issue of clarity is set in the public record, which is Hansard, not the private negotiations between the regional municipality of Hamilton-Wentworth and the Ministry of Municipal Affairs and Housing.

That process does not contradict government policy, though, because government has the ability, if a piece of private legislation is against government policy, to ensure that it does not pass. Then at least it goes on the public record so the question of clarity is there, and very clear.

Mr. Farrow: On that, it is very clear on the public record that Hamilton-Wentworth has asked, for example, for a change in the selection of chairman. That is clearly on the public record, in the newspapers and the ministry is hearing it now.

Mr. Charlton: That is very clear. The government's response to that is not clear. The government's rationale for refusing the legislation--

Mr. Kells: That is why we have elections. You can make it clear at election time.

Mr. Chairman: Order.

Mr. Charlton: The government's rationale for refusing that legislation is not clear. The position of the government members from Hamilton-Wentworth is not clear either, people for whom the people of Hamilton-Wentworth have to vote in the next provincial election. Their position is not clear.

Mr. Kells: You get about 70 per cent turnout for a provincial election and about 30 per cent for a municipal election.

Mr. Charlton: That is irrelevant.

Mr. Kells: No, it is not.

Mr. Epp: If the questions are finished, then I would like to lead off discussion with respect to the overall determination this committee has to make.

Mr. Chairman: I have no other members who wish to question either of these witnesses, so you have the floor.

Mr. Epp: I listened very closely to the arguments put forth by Mr. Plant and by Mr. Farrow. I have read the correspondence and listened to the precedents. In looking at the precedents, one thing is absolutely clear, and that is that there are no precedents.

It is very favourable to Mr. Plant to cite certain precedents as far as his case is concerned. It is very fitting for Mr. Revell and others to quote certain precedents, but we can quote the precedents that favour our particular side. The way I see it, the precedents give us all the latitude we want within the scope of the question that has been put before us.

I do not think we can hang our hat on any particular precedent, because we can find another counter-precedent for it. That puts aside that particular argument.

The other matter, as I see it, that is before us is the amendment to a public act. Mr. Farrow, for instance, indicated that there are cases in which the province has looked favourably, such as legislation in Ottawa-Carleton, primarily for the city of Ottawa, the Sparks Street mall you were referring to, and the promenade in Sault Ste. Marie, with which I am not familiar.

Mr. Farrow: In Thunder Bay.

11:10 a.m.

Mr. Epp: The promenade in Thunder Bay. I think you said the Soo, but in Thunder Bay and other areas. What the province has permitted in the past is legislation that has corrected, fulfilled, amended or expanded provincial legislation for a particular area, but would not interfere with the goings-on in any other part of the province.

When we look at the bill before us from Hamilton-Wentworth, we see clearly that the bill does not deal with Metropolitan Toronto, Ottawa-Carleton, Kitchener-Waterloo, Kingston or Windsor; it deals with Hamilton-Wentworth. We do not find any suggestion that it should amend any other part of the province. It deals with an area for which people have been elected.

That brings me to the point of accountability. Mr. Farrow and others have very much hung their hats on accountability as far as the legislation is concerned. If accountability is any yardstick, we should look at municipal accountability as well as provincial accountability.

To be very partisan for about 10 seconds, if the provincial government had a lot of support in the Hamilton-Wentworth area on this, perhaps it would have three or four members elected there, but I guess it has one.

Interjection: Cheap shot.

Mr. Kells: A cheap shot straight out front, though.

Mr. Epp: Mr. Rotenberg hung his hat earlier on what representation there was and so forth, and that it speaks for the people of Hamilton-Wentworth. I do not see them speaking clearly for the people of Hamilton-Wentworth, whereas we have people elected locally who do speak for Hamilton-Wentworth. This is the proposal they have put forward.

When we are talking about accountability, and a number of people have mentioned it, all of you have heard before and you have probably said it yourselves, as far as being closer to the people is concerned, you are closer to the people at the municipal level than at any other level.

I can tell you folks that I have run federally and lost, I have run provincially and won, and I have run municipally many times and won. When you are talking about accountability, you are closer to the people municipally. I say that from my experience and I also can quote--

Mr. Kells: You are closer to a smaller percentage of them. Only about 33 per cent of the people vote in municipal elections.

Mr. Charlton: In your municipality perhaps.

Mr. Kells: What is yours, Mr. Charlton? I bet it is not above that.

Mr. Chairman: Order. Mr. Epp has the floor.

Mr. Epp: I have mentioned precedents. I have mentioned dealing with the local area and not amending the provincial legislation, but only amending legislation for the local area. I have mentioned accountability.

I want to speak about timing. If the province had legislation on the books that was going to amend the areas of concern that Hamilton-Wentworth has, and if it came forward and said, "Do not pass this legislation because we have legislation we are drafting right now or that has been introduced, and we think it should take precedence over this local private legislation because it is going to resolve the problem," I would say, "Let us go with the public legislation."

However, we do not have any of that. The government is stonewalling amendments that the people of Hamilton-Wentworth want with respect to very important legislation. Therefore, I am going to support Hamilton-Wentworth's very clear, precise and rational request to have this bill amend public legislation.

Mr. Chairman: Mr. Epp, you have been so provocative that several other members wish to speak.

Mr. Charlton: Mr. Chairman, I do not wish to go through everything we went through two weeks ago. The discussions we had two weeks ago were taken in by everybody and that is why we are back here again today, so I do not think I need to repeat all of it. But I would like to pick up on the question of accountability and whether or not private legislation that contradicts government policy should be allowed to proceed.

I recall being in the standing committee on general government roughly five years ago when Mr. Rotenberg, who is a member of this committee, was in the committee dealing with a piece of private legislation from the city of Brantford, if I recall correctly, that contradicted, at least in some part, government policy and that the government was opposing.

I do not recall whether the whole bill was defeated or whether it was amended significantly to conform to government policy before it was passed; I do not recall the final outcome in the House itself. The point I am making here is that we had a piece of private legislation that was allowed to proceed through the legislative process in spite of the fact that it contradicted government policy, and the government had the ability to deal with that question in the legislative process without having to resort to a refusal to allow the legislation to proceed.

We are in a situation here where the regional municipality of Hamilton-Wentworth is asking for private legislation that contradicts government policy, apparently. All we are asking for is an opportunity to allow this piece of legislation to proceed,

to be debated and to be dealt with as opposed to trying to force something on the government that it is not prepared to accept in the way of legislation. We can deal with that in the debate and in the vote.

There are all kinds of precedents for private legislation that contradicts government policy. We have dealt with those kinds of situations appropriately in the legislative process, and there is no reason in this instance to refuse to allow this piece of private legislation to proceed. The government's concerns can be expressed adequately in the committee, in the debate in the House and ultimately in the vote that will either pass or defeat that piece of legislation.

Mr. Rotenberg: Mr. Chairman, we are dealing not with the merits of the legislation but with whether it should go forward. I did agree with the first part of Mr. Epp's presentation, in which he said that the precedents really do not tell us what to do one way or the other. We can look at them either way, and our standing orders are unclear.

But it is a matter of the policy of this government, which is still the government and will continue to be so for many years, that the regional acts--

Mr. Epp: Pride goeth before a fall.

Mr. Rotenberg: --are to be dealt with as public legislation and that the government does not want to have amendments to the regional acts, in most of which--and in this case certainly--the precedents that are set in the requested legislation would affect not just this regional municipality but almost every other regional municipality.

It is government policy not to amend or attempt to amend regional acts by private legislation. There has been a lot of talk about why it should be and why it should not be, but that is the policy. From a practical point of view--sometimes you have to look at the practicalities of this and not just at people trying to score political points--if the government is in favour of what the regional council brings forward, it will be introduced as part of the annual amendment to the regional act. If the government is not in favour of it, then it is not going to carry no matter how you bring it forward.

Mr. Charlton raises the question of having these matters debated. There are really four matters in this. I do not want to get into the merits as such, but, dealing with this as part of the merits and whether those should be introduced, Mr. Charlton said these matters should be debated in the Legislature.

The two matters that are really controversial--the makeup of the police commission and the election of chairmen--I would submit, with respect, have been debated in dealing with the regional acts, this one and other ones, and in various forms the opposition has found ways of debating these two matters extensively during the past three or four years. Each time the

government has gone very much on the record, if that is what Mr. Charlton wants, as opposing the philosophy and the details of these two sections of the Hamilton-Wentworth act as proposed.

So there is no question of requiring a public debate to know who stands where. The government is on the record, and I can indicate--

11:20 a.m.

Mr. Charlton: The last time anything was on the record, the present members from Hamilton-Wentworth were not here.

Mr. Rotenberg: I can indicate to the members of this committee and to Mr. Charlton that the government's position on those matters has not changed.

The other two matters are minor matters that fall into those areas Mr. Epp has indicated. They can and will be covered by other studies of the various technical points that would look after those two amendments. I am not saying they will be looked after the way Hamilton-Wentworth wants them, but they will be looked after and various matters are going forward.

The matter before this committee, which is a committee of the Legislature, is whether we should continue with the government policy, which is that municipal private legislation is basically to be used and encouraged from individual municipalities that have a lot of minor things happening to them, but the 11 or 14 regional acts are very much co-ordinated and done in tandem, so what happens to one regional act is looked after in another. It is government policy that all regional acts and regional act amendments shall be done as public and not private legislation.

A lot of the reasons have been put forward. There are arguments on both sides, but that basically is the bottom line. We feel that regional legislation, which takes in all regions, takes in a much vaster area in population than some of the smaller municipalities, although we can argue the city of Toronto is bigger than some regions in population. For that reason, the government feels regional acts should be amended by public and not private legislation.

I would indicate, as Mr. Farrow has done, that the ministry staff, and I myself on many occasions, have had discussions with politicians on regional councils and with officials of regional councils. Certainly we have discussed many things with Mr. Plant. We try, as much as possible, to be accommodating to regional municipalities and to implement what the regional councils want.

You say the public is on their side, but we were elected and they were elected and who knows really what the all the public wants? You cannot find that out unless you have a plebiscite, and I would not recommend that in any way.

I do not support this matter going forward as a private bill. These matters have been and will be considered as we deal

with amendments to all the regional acts, including amendments to the Regional Municipality of Hamilton-Wentworth Act.

Mr. Edighoffer: Mr. Chairman, the only thing I want to say is this matter was referred to us by the clerk under standing order 66(b): "The Clerk of the House shall refer to the standing committee on procedural affairs any application that, in his opinion, does not comply with the standing orders."

He wanted us to see whether it did comply with the standing orders and I feel it does comply with the standing orders we have. We talk a lot about government policy. As Mr. Rotenberg says, he did not want to get into the sections, but the question is really whether the application complies with the standing orders. I feel it does, so I am going to have to vote for the application.

Mr. Revell: The reason the bill is before this committee is, as stated by Mr. Edighoffer, to discuss whether it does comply with the standing orders. It is correct. It has complied with the requirement with respect to the payment of the \$150 fee, and it has complied with the requirements with respect to advertising, submission of statutory declarations and a draft bill. Although the draft bill that has been submitted has been agreed between Mr. Plant and myself, it requires additional refinement if the bill is to proceed or to be introduced.

The fundamental question is whether the regional municipality of Hamilton-Wentworth has applied for a private bill. Standing order 65(a) says: "Any person, group or corporation may apply for a private bill by filing with the Clerk of the House a copy of the bill together with a fee of \$150."

If you have applied for a public bill, you have not applied for a private bill. I submit that the question of whether you have a private bill is so fundamental that unless you have applied for a private bill, you have not complied with the standing orders.

Mr. Rotenberg: Mr. Revell, I am trying to understand. What you are saying, in effect, is because the present Regional Municipality of Hamilton-Wentworth Act is a public bill that any bill to amend that would also be a public bill. Is that, in effect, what you are saying?

Mr. Revell: I am saying that on the totality of what we have before us, and it is an opinion that I have prepared for this committee as legislative counsel advising generally on private bill matters, you do have to look at the whole situation. The fact that it is amending a public bill is just one test that is involved in the equation.

I do not think there is any doubt about the precedents that Mr. Plant cites being correct. In fact, it was intended that my opinion would have absolutely no precedents cited. I find I did cite one on page 3.

The reason I did not think it was worth while citing precedents was because the ones I found just go all over the road

map and yet, in each case the Speaker's ruling is based on a totality-type situation.

I will use Mr. Plant's own example to show what I mean. On page 4 he cites the Belfast Corporation bill. You will see that it is decided on the facts being applied to the particular case. The Speaker finds it does refer to a public matter and that public statutes were involved, but he decides the matters that were involved just were not so numerous or so important as to necessitate the use of a public bill.

Even where you are using a precedent to support your case, you find that the language, in fact, goes both ways. In this particular case, I think you have to take a look at those three matters. I will make no comment on the fourth one, which is the limitations period. We dealt with that one last week in committee where I said every time you look at it it gets more and more to look as if may well be justified as a private bill. Whether or not it is passed is a matter of policy.

Here it is a matter of the totality of the situation or the total consideration of the situation. Going back to why the bill is here, it is because of the fundamental question, "Has there been an application for a private bill?" All of the other standing orders have, in fact, been complied with.

Mr. Plant: Could I have a brief comment?

Mr. Chairman: Yes.

Mr. Plant: I believe, and Mr. Revell will no doubt correct me if I am wrong, that what we proceeded with here is in the form of a private bill but in substance is not. Is that putting it fairly?

Mr. Revell: That is putting it fairly.

Mr. Plant: With great respect, that is the very point which is dealt with in the precedent text. I quote the same paragraph which is in Beauchesne and May: "Private legislation is legislation of a special kind for conferring particular powers or benefits...in excess of or in conflict with the general law." That is exactly what we are asking for.

Two of the parts of the private bill we are asking for are in excess of what we have already. Two of them are in conflict in that they amend public policy in our regional act. They fall within the statement of precedent, I submit.

Mr. Chairman: Thank you. Are there any other members who wish to speak to this matter? Even though we are normally a consensus committee, I believe we are in a situation here which is more of a voting situation.

May I remind the members before we do vote of what we are here for. We are here as a result of the Clerk of the House writing to me on October 11, 1984, stating, "I am of the opinion

that this application may not be the proper subject matter for a private bill application."

Later he says, as Mr. Edighoffer has quoted as the standing order, "Therefore, pursuant to standing order 66(b), I am referring this application to the standing committee on procedural affairs to determine whether the above-noted provisions may be included in the proposed bill."

That is what we are here for. Again, it is the procedural matter rather than the content matter we are voting on.

Mr. Watson: What is the motion in front of us?

Mr. Chairman: I guess the question is, shall this private bill proceed to amend a public act? That is the question.

Mr. Revell: Perhaps I could make a suggestion. If the question were framed in the following way, it might lead to a report that was useful. I suggest asking the question, "Are any of the matters set out in the notice of application for special legislation of the regional municipality of Hamilton-Wentworth proper subjects of a private bill application?"

If the answer to that question is yes, then we could go through the notice seriatim and have a vote on each of the four questions. I just put that as a suggestion.

Mr. Chairman: Would you repeat that question again for all the members? Is it the wish of the committee that be the proper question?

Mr. Kells: We do not care how you word the motion.

Mr. Epp: I think the chairman put it quite succinctly a few minutes ago.

Mr. Rotenberg: Is the bill a proper bill to be dealt with as a private bill?

Mr. Chairman: The question is, is this application the proper subject matter for a private bill application? Are we clear and in agreement?

All those in favour of saying it is the proper subject matter for a private bill application please raise your hands.

All those opposed.

It is defeated six to four.

Mr. Plant: Mr. Chairman, are you going to ask the next question?

Mr. Chairman: That is answered "no." That is the four parts.

Mr. Plant, unless the members feel otherwise, I think that ends our determination. This was referred to us by the clerk.

Mr. Plant: The only question I have is that one of the parts was not objected to by legislative counsel on the grounds that it should not have been in a private bill.

Mr. Chairman: However, we are dealing with this private bill application with the four sections and I do not think that is the question the clerk has put to us. If he were now to have an application for a bill with several of those sections and were to refer it to us, we would deal with that subject at that time. I believe we were asked to deal with this in its totality, as in the application in front of us.

Interjection.

Mr. Kells: He could resign.

Mr. Chairman: Perhaps Mr. Charlton outlined that to us two weeks ago. It will probably show its head in the Legislature in another form.

Mr. Epp: A government bill.

Mr. Chairman: I do not think that is what Mr. Charlton indicated.

Mr. Rotenberg: Some of it may turn up as a government bill.

Mr. Charlton: All of it may turn up as a government bill.

Mr. Chairman: I think we have finished this subject. Is there anything else the members wish to bring up before we adjourn? Yes, Mr. Epp.

Mr. Epp: Mr. Chairman, this is not with respect to this matter.

Mr. Chairman: With another matter.

Mr. Epp: When do you expect the committee will meet again?

Mr. Chairman: we have in front of us, sitting on the back burner, private bills amendments and conflict of interest. We still have that conflict of interest matter referred to us by the Speaker. It is Mr. Breaugh's concern that was referred by the Speaker.

Shall we proceed with that next week? What do you want to go on to, private bills or conflict of interest?

Mr. Epp: We have another matter next week. If we are going to go next week, I suggest that we go a little earlier because of a reception taking place at 12 o'clock. The other

alternative would be to leave next week and sit in two weeks' time, which might be a little more appropriate.

Mr. Chairman: Mr. Epp is suggesting either we meet earlier or we skip next week and meet the week after.

Mr. Cureatz: I would like to skip next week.

Mr. Epp: Skip next week.

Mr. Chairman: Is that in order? It seems to be the consensus that we will meet again two weeks from today. We adjourn until two weeks from today at 10 a.m.

The committee adjourned at 11:34 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

PARLIAMENTARY LANGUAGE

THURSDAY, NOVEMBER 22, 1984



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breagh, M. J. (Oshawa NDP)
Charlton, B. A. (Hamilton Mountain NDP)
Cureatz, S. L., (Durham East PC)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Kells, M. C. (Humber PC)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Also taking part:

Martel, E. W. (Sudbury East NDP)
Nixon, R. F. (Brant-Oxford-Norfolk L)
Turner, Hon. J. M., Speaker (Peterborough PC)

Clerk: Forsyth, S.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

From the Office of the Assembly:

Lewis, R. G., Clerk of the Legislative Assembly

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, November 22, 1984

The committee met at 10:20 a.m. in room 228.

PARLIAMENTARY LANGUAGE

Mr. Chairman: Gentlemen, let us begin this morning's proceedings.

Mr. Breaugh: Why do you always take off your glasses?

Mr. Chairman: I am just cleaning them, Mr. Breaugh. Would the Speaker and the Clerk of the House like to come to the honoured seats at the foot of the table and share with us their thoughts on the matter they have referred to us? It is the question of members refusing to withdraw remarks that have been judged by the Speaker to be unparliamentary. We adjourned it until this morning so that you could lead off and give us your thoughts on the matter.

Mr. Speaker: Mr. Chairman, I think there are basically two problems. One problem came to view about 10 days or two weeks ago when it was alleged that a minister had made an inappropriate remark or had used unparliamentary language. I did not hear it. When I questioned the minister, of course, he stood up and denied it. It then became a case of having to accept that; at least I had to. It was not accepted by the person who alleged the remark had been made.

I guess that is the first item to deal with. What should be the position of the Speaker when we have a conflict or, if you will, a difference of opinion? Certainly, the Speaker cannot act as a judge. I have to accept the word of all members.

My wish in referring it here was to ask you people for some kind of direction as to the resolution of a situation such as that, not in that specific instance, but in general. It has happened before. I think it happens on both sides of the House. It is unfortunate. From time to time people tend to make personal remarks in the heat of the moment which may or may not offend other people.

There is no provision in the standing orders for any resolution of that problem and people have to accept it as such. They cannot continually refer it to the Speaker because I am powerless to do anything about it. I guess that is the first problem you people have to turn your minds to--either suggest some kind of change or leave it the way it is.

The other point is one Mr. Nixon raised. He has been very strong on this for some time and, personally, I have some sympathy for his feelings. When people are suspended for remarks or unparliamentary language, whatever it may be, they automatically come back to the House the next day.

There is no resolution of the problem; they are not asked to apologize. It is Mr Nixon's view that one of the things that should happen before coming into the House is that they apologize when they do come back in order to gain admittance.

That would have to be addressed in the standing orders; there is no provision for it. I think in one particular case where it was rather extreme the member did apologize. Members have in the past apologized on their own if they felt so inclined, but there is no compulsion on anybody to do so. I think that is the second point Mr. Nixon would like addressed. The way the standing orders are now, there is no way I can ask for or demand an apology.

Oh, here he is. I am not using your name in vain; I was just using it as an example, which may or may not be the same thing.

Mr. Nixon: No lies, please.

Mr. Speaker: So there you are. I guess in referring it to you people I was really asking you to mull it over and, in your wisdom, come up with suggestions.

Mr. Chairman: Thank you, Mr. Speaker. Does the Clerk have anything to add to that to assist us?

Clerk of the House: Yes, I would like to add something to what the Speaker has said. In the first place, in relation to the point about a member denying he had made a statement of which he was accused, the rule is clear that his denial must be accepted not only by the Speaker but by the House and by the person who claims he made it.

No matter how strongly he may feel about it, the rule is clear that the denial must be accepted; you must accept another member's word. If he says he did not make the remark, then that is the end of it.

Concerning the point the Speaker made about using strongly unparliamentary language, such as calling another member a liar or intimating in some other way that he was not telling the truth, I think perhaps the trouble there is that we have been dealing with it as a minor offence, and it is not; it is a major offence. The Speaker has been expelling the member for the balance of the day's sitting and then, as the Speaker says, he comes back the next day and that is it.

It appears to me that, under the standing orders as they exist, in a case as serious as that a motion should be made--and usually it comes from the government House Leader--that the member be suspended for anything up to two weeks. While there is nothing specifically covering it in the standing orders, there is precedent, not in our jurisdiction but in other parliaments, for including in that motion the very point Mr. Nixon has made several times, that the member be suspended for a week or whatever or until he apologizes.

That has been done in other jurisdictions and, while there is nothing expressly in our standing orders about it, there is nothing to prevent it. It could very well be included in our standing orders.

The argument has been made in the House a number of times, as you know, that if one member knows that another member is lying, then it is the member who is lying who should be thrown out, not the member who is accusing him. That simply cannot be, because the Speaker cannot be placed in the position of being a judge of who is telling the truth. The member who accuses the other member of lying must accept the member's word, and that is the end of it.

While I have your attention, I would like to take the opportunity to mention some other things.

10:30 a.m.

Mr. Rotenberg: Could we not deal with this item? I think it is a serious one. I do not know whether Mr. Nixon wants to ask a question; it is his right. If he does not, I would like to ask the Clerk a question on this.

Mr. Chairman: I think Mr. Nixon wants to speak to the committee after the Speaker and the Clerk are finished.

Mr. Rotenberg: I just want to clarify things in my own mind. If member A calls member B a liar, it seems that under present practices he is out for the day and comes back the next day without apologizing.

Do I read you correctly in what you see in other jurisdictions and in what I think you are recommending for our jurisdiction, that the member who calls another honourable member a liar not be able to come back into the House until he withdraws the remark?

Clerk of the House: In some jurisdictions there have been motions made and carried that a member would be suspended for, say, a week. Then after the week, he could not return to the House unless he had apologized.

Mr. Rotenberg: In other words, it would be a week even if he does apologize.

Clerk of the House: Exactly.

Mr. Rotenberg: I think back to a slightly different precedent in our House when the former member for High Park-Swansea was out of the House, in effect, for almost a year.

Clerk of the House: The procedure was wrong there. It was entirely wrong.

Mr. Breaugh: The House did not seem to think so. There seemed to be consensus around that.

Mr. Rotenberg: Mr. Lewis, would it require a change in our standing orders, or are you indicating that by precedents of other parliaments the Speaker could adopt this procedure without a change in standing orders?

Clerk of the House: It could be done here. Our standing orders do not exclude it, but it would be stronger if it were included in the standing orders. It could be included in the standing orders without any great difficulty.

Mr. Speaker: Actually, it is provided for on motion.

Clerk of the House: When it is provided for on motion, then a member may be suspended from the service of the House for any time stated in the motion not exceeding two weeks.

Mr. Rotenberg: That part I understand.

Clerk of the House: It does not say anything about apologizing.

Mr. Rotenberg: That is the key to the thing, and I want Mr. Nixon's comment on that, Mr. Chairman. I would like to comment after he does.

Clerk of the House: That could very well be included in the standing orders.

Mr. Chairman: I think Mr. Nixon would actually like to do his speech in the form of questioning, so that the Speaker and the Clerk can respond to him.

Mr. Breaugh: Can we not just play the tape?

Mr. Nixon: Obviously, I feel very strongly about this. Without mentioning specific cases, I can certainly recall one occasion on which the thing was rather a continuing discussion in the House. It became clear to me, and perhaps my views reflected the feelings of some others, that if the person had not withdrawn the words "You are a liar" and he was allowed to sit in the House, I could not have sat in the House.

I do not see how I could be expected to do business in a Legislature with a person who has said without retracting it that I am a liar. Maybe in the old days there were other remedies--meeting at dawn with pistols or something such as that.

I would also like to comment on the suggestion from Mr. Lewis that if the Speaker indicates he considers this a very serious or gross unparliamentary statement, he should more or less sit down and wait for the government House leader to make a motion. I know this is done in parliaments and I have read the rule very carefully.

I think the problem is that if the government House leader or another person fails to act, he might very well find himself precipitating a debate along the lines of: "He did say it. No, he

did not say it." That might happen even though it is completely out of order.

Then when a vote is taken, the House would be divided on whether the person would be expelled, and it would be a vote similar to the appeals at present to Mr. Speaker's ruling. Years ago the House would never vote against Mr. Speaker's ruling, except in very rare and serious matters.

Now--and I regret to say this, but it is obvious--the appeals to Mr. Speaker's ruling are really based on party lines, and quite often people send Mr. Speaker a little note saying, "Gee, John, I hope blah-blah," which is absolutely crazy.

On the other hand, if a motion were put by the House leader that Mr. X be now expelled, I am sure you would have a debate and it would be out of order, with all sorts of yelling and appeals to that. Finally, there would be a vote on party lines, which I do not like.

I certainly thought the background paper, which I guess the clerk of the committee prepared, was quite interesting in the reference to what they do in one of the Australian jurisdictions, in one of the states or the federal House, where Mr. Speaker has the power to expel a person and he shall remain outside the service of the House until such time as he arranges to apologize.

Frankly, I like "withdraw" better than "apologize." I think it is more businesslike and more parliamentary to say, "I withdraw that statement," rather than apologizing. There may be certain things you "apologize" for, like making a stain on the carpet, but I think this has to be "withdraw." In other words, it is not expunged from the record, but at least it is as if it had not been said.

I would like the recommendation from this committee to Mr. Speaker, indicating it feels he would be within his powers and rights, when he felt it was appropriate, to say, "You are suspended from the House until such time as you inform me that you are prepared to re-enter the House to withdraw that statement." That is very severe. I was just thinking what the appeal and the remedy might be. The colleagues of the member or any group concerned could very well bring notice of a motion that they would like the matter referred to this committee, perhaps to assist Mr. Speaker in reaching a decision.

If somebody says, "I think, Mr. Speaker, in this particular area, the member--"and he dances around a little bit, that is just a kind of a game. But when we get this great explosion that happens every now and then, and it is a flat statement, "You are a liar," something that will not be withdrawn, I do not see that there is any alternative for Mr. Speaker but to expel the person and say, "You cannot get in here until you arrange with me that you will come in to withdraw the offending word."

Whether or not the person did say the other word is, I agree with the clerk completely, completely irrelevant. It may be a matter of debate or something like that, and a motion to refer it to this committee, but that is what I would like to see.

Obviously, I do feel very strongly about it. The idea, "Oh, well, that is what they did in the 1880s," just does not wash. People do not call people liars out in the street. If you did, you would get your teeth knocked down your throat or something. You just do not do that. SOB maybe, but not liar.

Clerk of the House: There is another way, of course, that the Speaker can handle it--it is rather cumbersome, I admit--and that is to send the member out on his own authority for the balance of the day's sitting. Then when the member comes back the next day, he asks him whether he is prepared to withdraw. If he says no, the Speaker says, "Okay, out."

Mr. Nixon: Not bad. We did that on one occasion, but there has to be--

Clerk of the House: Keep doing that, just keep passing him out until he does withdraw.

Mr. Rotenberg: I wanted to hear from Mr. Nixon first because I share his views pretty completely. It is really a matter, not of our own prestige, but the prestige of the House. I always say never take ourselves seriously, but take the House very seriously. As the Legislature of Ontario, or as the parliament of any jurisdiction, I think there has to be a certain respect for the chamber and a certain respect for the seats we sit in. Without regard to who those people are who are sitting in those seats, I think there has to be a respect for the dignity of the chamber.

I agree with Mr. Nixon that when someone makes that kind of a bold statement, "You are a liar," or similar kinds of statements which in our standing orders are unparliamentary language, I think that just takes away from the dignity of the chamber and really from the impression the public has of the legislators, without regard to who they are or what their parties.

Therefore, I really think that should not be allowed to happen. If someone stands up, as happens, and says, "You are liar," and he goes out for the rest of the day, comes back the next day and has not withdrawn it, I think it does take away something from the chamber, the aura of the chamber, not from the individual member.

I agree with Mr. Nixon that there should be this kind of procedure. People do stand up and say it in the heat of the moment. We all do it; we all get a little hot sometimes.

Mr. Nixon: But you withdraw it right away.

10:40 a.m.

Mr. Rotenberg: If the person withdraws it right away, and I think he should and most times he does, that is fine and that is the end of it. We all get hot. We all lose our tempers and we all get annoyed with each other. That is part of the game. But if a person gets stubborn and refuses, I think the Speaker should have him leave.

As for this idea of having him come back day after day, maybe he can come back in the next day, and if he refuses to withdraw, he should be kept out until he is prepared to walk back in and say, "I withdraw." That happened in the case of a former member for High Park-Swansea, involving a slightly different but similar accusation--it was not a lie; it was something else. (Inaudible) Maybe we should have changed our standing orders.

I agree with Mr. Nixon, because I remember the incident he talks about. It is difficult in this kind of chamber. It is different from being on the street or being in your local service organization. There is something about a parliament, this or any other parliament, which should have a certain dignity about it. It is up to us to preserve the dignity. I am not really concerned--

Mr. Nixon: You would not stay as a member of a local service organization if a fellow member called you a liar and did nothing about it.

Mr. Rotenberg: It depends on the situation. In this particular place, we have to maintain a certain dignity and aura about the chamber and about the way things happen, whatever we think about people. It gets down to the fact that every member is considered to be an honourable member and every member is considered to be telling the truth.

As Mr. Nixon says, there are an awful lot of ways of indicating that the honourable member opposite is not telling the truth without calling him a liar; there are ways of dancing around that and getting the message across in parliamentary language.

Clerk of the House: "He has been misinformed."

Mr. Rotenberg: Yes, there are ways of doing it. You can even get up and say it and then withdraw it, which is a tactic (inaudible) the greatest.

Mr. Nixon has been hammering at this point for a couple of years. I would like to see a change in our standing orders to cover this kind of point, because it is necessary for the image of our parliament in the province.

Mr. Watson: I would like to agree. The problems come from those rare circumstances when the fellow calls someone a liar and he is put out for the day and then proof is presented that in fact he is a liar. I know the issue has nothing to do with the parliamentary performance in the House, but in the case of somebody who is so set on saying that kind of thing and not withdrawing it, it is quite likely there is a slight chance he might be right. How do you do that--

Mr. Speaker: That has to be resolved some place else.

Mr. Watson: But what happens the next day when we change the rules to say you must withdraw it, and time has permitted whatever the accusation was to show that the person had been misinformed?

Mr. Speaker: That is not for us to judge.

Mr. Watson: But in terms of perception; that is what I am saying. In the heat of debate, if somebody calls somebody a liar, then he can withdraw it. But if somebody is that adamant, the member may be right. Then we have the problem of separating the parliamentary things out from what the issue is about.

Clerk of the House: A member cannot call another member a liar even if he is.

Mr. Watson: You have hit the nail on the head. What is our remedy for that?

Mr. Rotenberg: "The statement the member made is not in accordance with the facts."

Mr. Watson: What has got me on to this is Mr. Nixon's interpretation of the difference between withdrawing and apologizing. Withdrawing withdraws it, but it is not a matter of really withdrawing; the fellow should apologize if he was lying.

Clerk of the House: There is a procedure, of course--it is not too well known, but it is a very well recognized parliamentary procedure--where the member does mislead the House and it is shown that he has misled the House.

The Profumo case is the most illustrative of the procedure. Profumo, as you may remember, rose on what is known as a personal statement, or personal explanation, and said that all the allegations in the paper about him about and this woman were false; he did not even know her, etc. Then when it was shown by the press that he did know her--

Mr. Rotenberg: Knew her rather well.

Clerk of the House: Quite well, in fact.

Mr. Nixon: In the biblical sense.

Clerk of the House: Yes. He rose again on another personal statement and admitted that he had misled the House, that he had lied to the House, that all the accusations were true and that he was resigning. If a member is proven to be a liar by the passage of time, as you say, that is the remedy open to him, to stand and make a personal statement on it.

Mr. Speaker: That is a judgement each member--

Clerk of the House: That is a judgement he would have to make on his own.

Mr. Rotenberg: That is the remedy for the member, but the member who has been lied at, the member who makes the accusation, has no remedy except to make the other explanation to the House and say, "These are the facts." He can rise on a point of privilege and say, "These are the facts and the statement of the member opposite was not in accordance with the facts," which is parliamentary language.

Mr. Nixon: He could always give notice of a motion, either as an individual or a party. It might not be called as soon as he might like; still, the notice of motion is sitting there, saying, "This matter is of grave concern and should be referred to a committee," or something like that.

The matter of the lying over whether you said a dirty word in the House, or you said you did not go to the committee on Tuesday when I saw you there but you thought it was Thursday, that is one kind of lying. The other kind of lying, such as, "No, I did not sell the back end of the farm to the Ministry of Transportation and Communications," or something like that, is an entirely different thing.

Mr. Watson: The Minister of Transportation and Communications can get up and say you are lying.

Mr. Nixon: All he has to do is get up and say, "Here are the papers indicating you did," which is completely in order. All you have to do is not say, "You are a liar." That is simply not acceptable. Of course, since it is not acceptable, it soon takes on the overtones in this House as the worst kind of blasphemy and everybody likes to use the worst kind of blasphemy. That is really what is happening.

If it is clearly understood that Mr. Speaker has control of this thing, with the backing of this committee representing all the members, I think it would soon be laid to rest.

The other thing is the argument, "He did say it and I am going to listen to the tape." Then you pore over the tape and all the grunts and groans and interjections and stuff; and I do not even think that is proper. If the Speaker hears the person use some unparliamentary language, then it is used; if he does not hear it, I suppose the Speaker could say, "I am not going to listen to the tape; I did not hear it."

Also, we have a long list of words that are unparliamentary -- "pipsqueak" and that sort of thing.

Mr. Speaker: Too many, really.

Mr. Nixon: Yes. Even the word "hypocrite," if you think about it, is a very serious charge to make. It means you are saying one thing and believe another, which is a very serious thing to say.

Mr. Watson: It fits a lot of people, though.

Mr. Nixon: That is the point. I do not believe, frankly,

that it does. The fact that we might argue violently over some issue does not mean you have the right to say that I do not believe what I am saying. If you say that, then I have the right to call on Mr. Speaker to enforce the rules that do not permit you to say that, because nobody could judge that except the good Lord.

Mr. Speaker: That is one of the words of which I have a very clear understanding, and I do ask for it to be withdrawn, as you know, over the objections of various members from time to time.

Mr. Breagh: At the risk of jarring you back to the reason why we are belatedly in session this morning, there was an incident that has been referred to the committee. I suppose one might weasel around and say the Speaker did not actually refer it directly but indicated that it was within the committee's jurisdiction to deal with it.

I think it is an awkward thing because a member of the cabinet is accused of saying, to use the parliamentary term, "Moderate off" to my House leader. My House leader was then caught in the invidious position of having heard it, and everybody who sits directly across from the minister heard it, and I am sure the little kiddies sitting in the gallery across from him heard it, but the Speaker did not.

The Speaker is in a tough position here. I do not think the Speaker can be expected to rule on something he did not hear.

10:50 a.m.

Mr. Speaker: If I may just interject, I did call on the member and he denied it. That puts me in the position of--

Mr. Breagh: That clears you.

Mr. Speaker: Exactly.

Mr. Breagh: That is what we call in the trade a mulligan. In the process of explaining himself, Mr. Martel named some members who agreed that they had heard it being said. We have on the record a minister of the crown standing up and saying, "I did not say that," and a House leader of an opposition party saying, "Yes, he did," and in the process naming a number of other members who agreed they had heard it said.

What are we all supposed to do? Nine or 10 of us heard it said. Are we liars? Are we going to leave it sitting there so all a member has to do is stand up and say, "I am an honourable member and I would never say that," when the fact is that some of us did hear him say it? Obviously some people in the gallery heard him say that; obviously visitors heard him say that.

It might be very polite and very parliamentary to go back to the 17th century and say, "We are all honourable members, and we would never use such words in parliament," but the facts belie the case. I believe we have to deal with that in some way. To be polite about it, it looks ridiculous to maintain a tradition where all a member has to do is get up and say, "I did not say it."

I was there and my version of it would be simply that there are occasions when one says things of which one is not really aware. One inadvertently lets slip a few little things one normally would not say. In other words, one is not on one's feet making a speech, but sitting on the benches reacting. Perhaps that is how it came out, but I was there and there is no question in my mind that the words were uttered. There is no question in the minds of several members, and those members were sitting directly across from the minister.

It is an acceptable explanation for me that maybe even the person sitting next to the minister did not hear him say those words. Certainly it makes sense that the Speaker could not hear him, because the Speaker is away at the other end of the chamber. Maybe not one member behind him heard him, but those who were directly across from the member heard the words.

I have seen this happen before around here. The last occasion I remember was in this room. A member walking out the door paused to whisper in the ear of a witness who was before a committee some not too gentle words. The witness heard them and members who were sitting opposite heard them. The chairman of the committee obviously could not hear them, because the member was facing the door and walking out when he whispered these sweet nothings in the witness's ear.

On that occasion, good sense prevailed. Somebody went and talked to the member, and the following day, at the beginning of the committee session, that member said, "I did not mean to say that and I do apologize for saying it." That resolved it.

In this instance, to put it squarely before the committee, there appears to be a bit of a conflict. A minister of the crown, in my view and in my ear, said something not only unparliamentary but also downright rude. He stood up and said, "No, I did not," and my House leader, Mr. Martel, established, in his usual quiet and delicate way, that he did. I think that is a matter we have to deal with in some way.

There is one other thing that has to be dealt with as we go through this. It has become a practice around here during the last little while, particularly when some foofaraw breaks out and Mr. Speaker names a couple of honourable gentlemen, for them to take a hike for the afternoon, which they do. They go outside and get more press than everybody else who stays inside. Then generally, if the uproar is great enough, the eminent House leaders meet in secret session somewhere and a deal is struck that there really was not much of a sin, all charges are dropped and they go back in.

In the past year, I think that has happened on two occasions. It usually follows the sequence of somebody saying something, the Speaker throwing him out, somebody else saying, "I am not going to let him get all the press today, so I am going to say something too," and that one getting thrown out. A general uproar ensues and a truce is negotiated. Part of the truce is that the offending members are readmitted to the Legislature, usually that afternoon or that evening. I do not quite know how this happens. I suppose we are saying that, by unanimous consent, we

can always agree to such deals, but it is usually not put to a vote in quite that way.

It puts the Speaker in a rather invidious position. He was attempting to maintain order, to follow the standing orders of the House. He ejected a couple of members. A deal is struck outside where none of us knows what is going on; none of us is party to that deal. We just plain accept it.

Mr. Speaker: Not even the Speaker.

Mr. Breaugh: Not even the Speaker.

I understand how all this happens: it is a general move to calm everything down and get things back on track again. But I do not think it looks very good for the Speaker being able to eject members from the Legislature when somebody else can say it was a wrong call or was a little too tough or we can just go back to business as usual.

I would like that one on the agenda too. We have to deal with the specific matter before the committee, and that is not an easy thing to do. Perhaps we will have to rewrite some of the standing orders under which these things occur.

Mr. Speaker: While we are talking about that--and I do not want to divert anybody's attention--another matter has been alluded to. It is something I feel very strongly about, and I would like it too to be on the agenda for your consideration; that is, the appeal of the Speaker's ruling.

As mentioned earlier, this used to be done very occasionally and on very important points of principle. In my time here it has become frequent to the point where it is meaningless. As Mr. Nixon said, it usually divides on a partisan basis. People will stand up and say something nonsensical: "It is nothing personal, Mr. Speaker, but--" or they will send me a note and say, "Gee, John, I am sorry but--" As far as I am concerned, the whole procedure is nothing more than a bit of a charade.

I would further point out that we are one of the last Legislatures in Canada to allow an appeal to a Speaker's ruling. I would like the committee to take that into consideration as well, if it would, because I think it is very serious.

Mr. Rotenberg: Do you feel there should be no appeal to the Speaker's rulings? For instance, during question period one cannot appeal your ruling. There are some instances where one can and some where one cannot. Do you think appeals to the Speaker's rulings should be abolished totally? Or do you think they should be very much more restricted but leave certain situations where the Speaker's ruling could be appealed?

Mr. Speaker: In most jurisdictions, they are abolished completely. It casts a reflection on the judgement of the Speaker, suggesting that maybe he has made a partisan decision. That is always the feeling I get, because it always divides on party lines.

Mr. Rotenberg: The emergency debate situation is an example. If you say, "Shall the debate proceed?" or "That is out of order," those are appealable. That is a little different from throwing somebody out or some other kinds of rulings you make.

We have talked in this committee about changing the rules on emergency debates so that in effect you would not be making a ruling; you are saying whether the debate should go ahead. In other words, you are leaving that up to the House rather than the Speaker.

Are there certain situations where the Speaker's ruling could possibly be appealed, or do you think it should be totally abolished?

Mr. Speaker: As I say, we are one of the last in Canada, and probably in the Commonwealth. It is my view that it should be final.

Mr. Rotenberg: Then we would have to change the rule on emergency debates.

Clerk of the House: What the Speaker has said is absolutely correct. In most jurisdictions the appeal from the Speaker's ruling has been abolished completely. In England, another procedure was adopted. Whether they have cured the flaws in it, I am not aware. After appeals from the Speaker's ruling were abolished, a procedure was adopted whereby they would move a motion of censure on the Speaker. They would say, "Nothing personal, of course; it is just to get a vote." Then they would vote on it.

Mr. Rotenberg: That is worse.

Clerk of the House: That is worse, unless you can eliminate that as well.

11 a.m.

Mr. Breaugh: I would like to point your attention to the Hansard that is included with your briefing notes and take a look at the written record of how this was handled.

Mr. Martel rose on his point of privilege and stated his case. The minister in question, Mr. Leluk, is quoted in Hansard as saying, "Now it is mouthing," whatever that means. It is obviously not a very polite response. Then when Mr. Martel said, "They cannot all be wrong," Mr. Ashe, another minister of the crown, said: "Sure they can. They usually are." That is on the verge of being parliamentary, I suppose. Mr. Martel went on to name some of the members and Mr. Havrot interjected, "Birds of a feather."

You can see the kind of position we are in. It appears that these kinds of things can appear in Hansard when a member is attempting to make a point of privilege. He is simply attempting to state his case and he is mocked by ministers of the crown and others on that side of the House. Perhaps this is just parliamentary debate at its lowest form, but you can see the

problem we get into. If you do not want to take it seriously, then you have to take it as you get it. That appears to be what is happening here.

Mr. Speaker: There is another underlying principle that is a bit troublesome and difficult. The members certainly have the right to rise in the House and make points on whatever they want, but I suppose whether they are heard is the will of the House or the individual members. It goes on all the time. Sometimes it is recorded in Hansard and other times it is not. I am not trying to justify it one way or the other.

However, you can reach a point where you become so sterile that the debate is meaningless. That is something Speakers around the world have had to deal with. It has been referred to as the cut and thrust of debate at its lowest form, as you say. That is a matter of opinion. It is a serious matter. Under our established procedures and precedents, there is not a great deal we can do about it, unless you want to make some provision one way or the other in the standing orders.

I just emphasize that it puts the Speaker in a very delicate position when members rise and say, "Mr. Speaker, I draw your attention to this and I want you to do something." I look in the yellow book and I see there is nothing there that allows me to do anything. If I did not hear the remark, which I did not in that case, it makes it all the more difficult.

That is not to say I cannot deal with it because it is very clear that, when the Speaker's attention is drawn to a matter, it has to be dealt with. Where it gets dicey is when the other member stands up and says he did not say it. To my mind, that is the end of it, as difficult, insulting or unacceptable as it may be to the person who has been offended. I do not see that we have any other choice or we are going to destroy the whole dignity of the institution.

Mr. Breaugh: Along the line of the dignity of the institution, you cannot tell me to fuddle-duddle off in a locker room, on the street or in the Legislature of Ontario and get away with it. That is not going to happen. No matter what centuries of parliament say, you are not going to say that to my face and let me hear it. You can say it to my back so I do not hear it, but you cannot look me in the eye and say it to me. That is precisely what happened here and I think we have to find a mechanism to deal with it.

Mr. Speaker: I did not want to deal with the specific matter; I want to deal with the broad issue. To my mind, the specific matter has been dealt with and there is nothing I can do. If you would like to give some thought to the whole broader issue or principle, that would be fine.

Mr. Breaugh: Perhaps we should hear from the shrinking violet to my right.

Mr. Speaker: Who is never on the right.

Mr. Breaugh: Do you think that is parliamentary?

Mr. Martel: I have to go back and make another deal. There is a House leaders' meeting going on, and I have to go back.

Mr. Speaker: What kind of deal are we making now?

Mr. G. I. Miller: Mr. Chairman, from my observation--and we are sitting on one side of the House and happen to be listening fairly closely; sometimes we do and sometimes we do not--I think what the members are saying is actually what happened, and you have a debate among the members who did hear it. I have no doubt that you did not hear it yourself, but should you not involve those members in a clarification?

Mr. Speaker: You see, I cannot really be put in the position of being a judge, and any debate that ensues from it is clearly out of order. By way of explanation so you will not think I have selective hearing, there are other things going on at the same time. I do not remember the circumstances at this particular incident, but questions are usually being asked or speeches being made, with the normal repartee that goes on between various members.

When something of this nature happens at the other end of the House, it is impossible to hear it. If it happened up at the other end, obviously I would probably not have any difficulty hearing it, because I hear all kinds of things that go back and forth; but down at the other end of the House it is extremely difficult.

Mr. Martel: That was the first mistake we made: when we took the garbage track out.

Mr. Speaker: Well, that was your decision.

Mr. Martel: No, I opposed that decision, but the government forced that change at the Board of Internal Economy.

Mr. Speaker: If I may comment on that, I think Mr. Breaugh made the point that a decision has to be made immediately on what I hear in the House. It is like replaying the tapes at a hockey game or a football game and saying, "Gee, the referee made a bad call." He may very well have.

Mr. Martel: But it puts a member in a vastly different light when you can go upstairs, pick up the soundtrack and hear him say it and yet he has denied it. His own credibility is at stake if he denies having said it and you go upstairs, listen to the tape and in fact there he is saying it.

Mr. Speaker: That becomes a matter between the two members.

Mr. Martel: The point I am making is that it forces the member then to get up and withdraw. The garbage track was taken out of the House because of the comments of the member for Timiskaming (Mr. Havrot) regarding native people and Italian

people. That is why it was taken out.

Mr. Rotenberg: That is not true.

Mr. Martel: It is true. I was there; do not tell me.

Mr. Rotenberg: It was picking up private conversations of yours too, which should not be there.

Mr. Martel: It did not pick up private conversations. Maybe if it did, the House would be quieter.

The Vice-Chairman: I think we are a bit off topic here. Have you finished, Mr. Miller?

Mr. G. I. Miller: I have just one final question. How many appeals of the Speaker's rulings were made in the past year?

Mr. Speaker: Every one, I think.

Mr. G. I. Miller: What was the number?

Mr. Speaker: I do not know.

Mr. G. I. Miller: There is no accounting for that?

Mr. Speaker: We could check easily enough. It has reached the point where it has become, in my view, rather meaningless.

Mr. Breaugh: It is almost automatic.

Mr. Speaker: Yes.

Mr. Martel: My concern is not so much about the incident involving the minister. I am fairly thick skinned about that, except that he got caught with his pants down politically.

Where I differed with what was going on and what was being said was when I asked that he correct the record and he got up and denied it. I have been thrown out a couple of times for that and I will continue to get thrown out because what is taking place is that someone can say something about you or to you and, if you dare to say he is a liar, even though he might be, you are the one who gets turfed out and the guy who says it goes scot-free.

11:10 a.m.

I am tired of the jargon in our rules that says we are all honourable gentlemen. Maybe some are more honourable than others, but I think it is totally unfair to the members. Maybe the members should have to sit down in front of a committee of their peers and sort it out. I do not think it would happen very often because, if members realized they would have to come forward, they would be much more careful in what they were prepared to say or accuse another member of.

If they knew full well there would be a committee which

would review all of the circumstances and all the material, then I think you might find people would be a lot more precise in what they say. They would be a lot more specific and would not be so hell bent for leather to say anything they wanted.

You would have to really watch if you knew you were falsely accusing someone of something, or if you were suggesting that another member was doing something, according to standing order 8 or 9 of the rule book, I think you would be somewhat more laid back. I do not think you would come on as vigorously, and you might be willing to withdraw much more quickly.

But it is not just the withdrawal I am after. I think it is terrible that people can get up there and say one thing in one place, go some place else and impute motives, and say whatever they want about another member, willy-nilly. We do not discuss the issues around here any more; it is name-calling. We cannot discuss anything and put logical alternatives for it.

If one wants to look at the debate on Tuesday afternoon, one might read it just for interest. There is no effort around here to discuss the issues. It degenerates into almost a name-calling on every issue. If you differ with the government, with their overwhelming majority, they do not even talk about the issue. They do not even answer the questions the members are raising, and it starts with question period.

I know Mr. Speaker does not have control over question period, in the sense he cannot say what a minister is going to answer.

Mr. Speaker: I cannot control their--

Mr. Martel: No, they are going to answer whatever they want. They do not even try to answer the question. It is downhill from there on. It is a joke.

Mr. Rotenberg: Do not put all the blame on the government side. The questions also come from the--

Mr. Martel: The questions are there. If you do not want to answer, do not answer, but do not go off in the wilderness and try to come off--You do not even try to answer the questions that are posed and from then on it is downhill.

Mr. Speaker: I am not trying to defend them, but that is a tactic or a principle, or whatever, that seems to be used by parliaments around the world.

Mr. Martel: Then we are going to--

Mr. Speaker: It is not anything unique here.

Mr. Martel: No, and I am saying to you that when I watched in England, they answered the questions.

Mr. Speaker: The basic question.

Mr. Martel: The first question was a shot--where is the minister, and what was the minister doing in town yesterday?--and the second question was the main question, a short question, and there was a short answer.

Mr. Rotenberg: But the question did not have all that loading in front of it. I am not defending anybody or attacking anybody, but all the innuendo and all the name-calling, the legal name-calling, is on all sides of the House, Eli, it is not just--

Mr. Martel: I am not claiming it is a one-sided situation. I am saying it starts downhill. We cannot debate anything and get an answer any more. I just suggest you read Tuesday afternoon's debate, the emergency debate on 500 or 600 jobs. It was a waste of time and totally irrelevant, totally.

Nobody wanted to talk about the issue. We thought we were. The government thought it was responding the way it wanted. Nobody dealt with the issue in the sense that we did not come to any type of resolution or conclusion or even suggestions for possibly saving the thing. It was just totally irrelevant, and if you want the place to be totally irrelevant, it will continue, until we change some rules.

The main issue for me--and as I say, I have taken a walk more than once and probably will again--is that I have been accused of many things such as being headstrong and outspoken and whatnot, but I do not lie. If I think a member is lying about me, I am going to call him a liar every time. There has to be a resolution to the accusation that is made against a member.

Mr. Speaker: Even that procedure, if I may, has become rather irrelevant, because of the frequency with which it is done. I think before you came in your colleague from Oshawa (Mr. Breaugh) made the point that, in doing so, the person who is asked to leave gets more press than the people who are left in the House.

Mr. Martel: Oh, okay, but I am not going to get thrown--

Mr. Speaker: No, that is not the point.

Mr. Martel: Sure, I know what you are saying and I know what Mike is saying, but I am not prepared to get thrown out over some frivolous thing just to get press.

Mr. Speaker: No, I am not suggesting that--

Mr. Martel: I know there is the belief that some people get thrown out deliberately because it is going to get them press. I am not suggesting you said that.

Mr. Speaker: No, never.

Mr. Breaugh: I said that.

Mr. Martel: He said that.

Mr. Breaugh: Because that is the truth.

Mr. Martell: I am suggesting that I am not prepared for someone to lie about me. If he does, I am prepared to get turfed out every day if need be. I do not like being turfed out and I do not need to get press that way, but there has to be a mechanism--I do not know if it is a committee of members who will decide--a way to sort it out. In each and every instance I have seen over the years involving this, it is the member who says, "You are lying about me," is the person who gets thrown out, while the guy who did it--

Mr. Speaker: Whether he was correct or not.

Mr. Martel: --sits there smugly while somebody else gets thrown out. There has to be a way of sorting it out. I am tired of hearing the words, "We are judged to be honourable members." I understand the Speaker cannot be expected to sort out that. He is not going to make that decision on whether one person is lying or not, but I suggest that something has to be done. Somebody has to try to sort it out.

I think if we were to establish a committee, we might find people would be a lot more careful. If we go back to the last page, it says, "Charges of corruption, deliberate dishonesty or uttering a deliberate falsehood reflect to the highest degree on the integrity of a member."

The guy whose integrity is in jeopardy is the guy who gets thrown out the door. He is the one who could be affected by it. The public never hears--

Mr. Speaker: You have offended the sensibilities of the institution.

Mr. Rotenberg: Mr. Martel, there are ways, as we discussed today, of saying the honourable member opposite is a liar without using unparliamentary language. What you did the first day, okay, but if you read Hansard here, you got up and in effect made a case, and it now rests in the court of public opinion that a certain other member's statement was not in accordance with the facts. You made a case and documented it, and so many members heard it. That is really your opportunity, within the Legislature, to stand up and say the gentleman opposite--

Mr. Breaugh: No, it is not.

Mr. Rotenberg: Just let me finish.

Mr. Breaugh: Elie could not even get up and put on the record the words that were spoken.

Mr. Speaker: Not very well.

Mr. Rotenberg: Not very well, not in that situation. In most situations, one can get up and say, "In my opinion, the honourable member opposite said so and so, even though he denied it, and other people heard it. In my opinion, his denial is not in accordance with the facts."

You can get up and make that kind of statement. It is perfectly parliamentary. There is the point also to refer it, say, to this committee or any committee and have committee members judge. I am sitting in this committee, but I was not in the House that day or at the time it happened. To have me sit in judgement on, "Member A said I did and member B said I did not," creates a situation that could become very partisan. It also puts a number of members in a difficult situation.

I do not know if you believe in parliamentary tradition. I do, and it is not in the parliamentary tradition for members to sit and judge whether member A or member B was right. Each of them make his case and it goes to the court of public opinion where, in this particular case, with respect, you have made your case in Hansard. You did get a chance to stand up and say why you thought the honourable minister's words were not in accordance with the facts.

Mr. Breaugh: No, he did not.

Mr. Rotenberg: Sure, he did. It says so right here in Hansard.

Mr. Breaugh: I can, but I am not going to use the words that were used.

Mr. Rotenberg: You are not going to use the words that were used, but everybody has alluded to them. Everybody knows what the alleged words were. You got up and said, "He said it, seven or 14 members heard him say it, his denial is not in accordance with the facts and there it is." The minister then said, "No, I did not say it." How can anybody--any other honourable member--sit in judgement on that? It is on the record.

Mr. Breaugh: No, it is not on the record.

Mr. Rotenberg: The press has written about your allegations and it is in the court of public opinion.

11:20 a.m.

Mr. Martel: The denial is on the record and the guy who got turfed out was me. That is the point I resent. If I am going to go for calling a member a liar, I will go for calling him a liar. But if somebody lies about me, I will get turfed out every day because I am not going to tolerate that. For me, though, there is no recourse. That is what I find offensive. The guy who makes the allegation or does the cursing sits there in all his smugness whereas you, who are not prepared to take that kind of nonsense, are the guy who gets thrown out.

Mr. Rotenberg: Just two points on that. First of all, if the Speaker hears it, which in this case he did not, he will rule on it. We discussed that. The Speaker can order him to withdraw and if he refuses to withdraw, then he can be turfed out if he has used unparliamentary language.

Second, I can understand what you are saying. If somebody

lies about you, you are going to call him a liar. The point I am trying to make is there are ways in which you can call him a liar without calling him a liar and getting turfed out. You can still get the point across very well to the press, the public and the members that the member opposite is not telling the truth. Now if you are headstrong enough that you are going to stand up and say he is a liar--wanting to get thrown out--good luck to you. You can say all that without getting thrown out simply by using a little different language. That is the point we are trying to make.

Mr. Martel: You want to play the game of little parliamentary niceties. That is what you are doing.

Mr. Rotenberg: Yes. I think we have to observe some parliamentary niceties.

Mr. Martel: I do not want to play the game of parliamentary niceties. I think you have to have it such that the member who does that sort of thing will be deterred in future from doing it.

Mr. Rotenberg: Yes, he will be.

Mr. Martel: You will never end it as long as we keep relying on a rule that came in who knows how many years ago that says we are all nice parliamentary and honourable gentlemen or women. It follows the tradition--and traditions really are not etched in stone forever, are they?--that we are all honourable people and therefore could never say it. No one would ever lie about another member. No one would ever curse at another member. No one would do it, but if you raised a fuss to try to get someone to withdraw, you are the guy who is thrown out for laying it on the line and saying, "He lied about it."

Mr. Rotenberg: You are not correct.

Mr. Speaker: There are other words.

Mr. Martel: There are other words I could use?

Mr. Speaker: Right. They mean the same thing and could have the same effect.

Mr. Martel: If they mean the same thing, Mr. Speaker, then we should not have a right to use them because we cannot accuse another member of lying. All right? I do not care how you couch it. If you say he is a prevaricator or use some other term, then what have you done? You have still called him a liar. The word "liar" is the only word in the terms you are not supposed to use. What you are saying is that you can call him a liar another way.

Mr. Speaker: No.

Mr. Martel: Sure you are.

Mr. Speaker: No.

Mr. Martel: You just said it.

Mr. Speaker: No.

The Vice-Chairman: Mr. Speaker, would you like--

Mr. Speaker: No. I should not be interjecting. Sorry.

Mr. Breaugh: Stop the interjections.

Mr. Speaker: It is the only chance I get.

Mr. Rotenberg: Could we get down to the basic point? Had the honourable minister said it--and I do not know whether he said it, as I was not there--and the Speaker had heard it, he certainly would have stood up and required the minister to withdraw. If the minister would not withdraw, the Speaker probably would have thrown him out of the House.

Unfortunately it is a tradition now in the House, and I guess in many houses, that there is an awful lot of heckling going on, an awful lot of back and forth. As the Speaker said, even with the size of our chamber, which is much smaller than in Ottawa or Westminster, a Speaker cannot hear everything that goes on because so many people are talking at once. Something is happening in our chamber. When the Speaker hears it--we are using this as an example--he would order that member to withdraw. If the member does not, he gets thrown out of the House. You do not have to get up and say he is a liar or whatever you want to say.

When the Speaker does not hear it, it is a problem. With respect, in a case such as this, where the Speaker did not hear it and some members say he said it and others say he did not, I cannot see any advantage to the dignity of the House in resolving a problem by having, let us say, the minister come before this committee and say, "Gentlemen, I did not say it," and have you and two other members say, "Yes, we heard him say it."

What kind of a position does that put committee members in to try to arbitrate between some guys who said he did not say it and some who said he did? I do not think it is the function of those of us in the Legislature who have to be partisan to sit in judgement on those kinds of conflicting statements. That is the function of the Speaker, who is a nonpartisan person. If it is not heard, then you make your case and he makes his case and it has to be that way.

Mr. Martel: I suppose when they first drafted rules regarding that they made the same arguments you are making now, David. We will go on making the same arguments for ever and we are going to continue to have the same battle. I guess there are those like me who are bull-headed. I could be called what you want. I do not think I am thin-skinned. I fight as everyone else, but I guess I use the language as much as anyone else. I have probably had to get up and withdraw as frequently as anyone else. So be it. When you do something and you have to get up and admit to it, you do it, even though it means eating a little crow.

When it comes to the crunch, however, and the guy denies it and he is going to stick to his guns, I am going to get thrown out every time. I am not going to stand there and have some guy pompously stand up and say, "I did not say that," when half the House heard him. They even heard over where the staff sits on the far side. A couple of the parliamentary interns there heard it.

If someone sits there pompously, saying "No, I did not do it," I am going to go each and every time. I am not going to have some member try to get at me that way. If he wants to do it frontally, fine, but to be sleazy about it, no thanks. I will go, but I am telling you there should be a way to redress it. It should not be the person who has been--I do not want to use the words "offended" or "maligned"--the person on the receiving end should have a way to defend himself.

Mr. Rotenberg: You have a way. You did it. Hansard shows you have a way of defending yourself.

Mr. Martel: The Speaker did not hear it. The Speaker could not do a thing.

Mr. Speaker: No. I just--

Mr. Martel: The minister declined.

The Vice-Chairman: The Speaker would like to speak.

Mr. Speaker: Mr. Chairman, if I may, I want to clarify one point. Whether I hear it or not is immaterial, if it is brought to my attention. If I do not hear it and another member says, "Mr. Speaker, a member said something or did something," then I have to act on that as well.

In this case, one person said one thing and another person said another. As I said before, I cannot act. That is the end of it. It does not satisfy you, obviously. I do not know what the answer is, but no Speaker can be put in a position of making a judgement on it.

Mr. Martel: I accept that Mr. Speaker cannot make a judgement in that instance.

Mr. Speaker: Then why do you keep appealing?

Mr. Rotenberg: But, Elie, neither can the committee. You are putting a committee in the place of the Speaker. If the Speaker cannot make a judgement when A says yes and B says no, how can a committee? If the Speaker, who is nonpartisan, cannot resolve that, how can a partisan committee resolve it?

Mr. Breaugh: Let me point out another problem here. I think Mr. Martel is trying in a gentle way to put an argument that is valid and that we have to deal with. If you choose not to deal with it, then it seems quite logical to me that I can go in this afternoon and say anything I want to anybody. All I have to do is stand up afterwards and say "No, I did not say that," and nothing will happen. You are going to encourage that practice if you do

not deal with the issue at hand.

Mr. Rotenberg: Except the difference is, with respect, if you say something and the Speaker hears it--

Mr. Breaugh: I am not so stupid that I cannot turn my face away from the Speaker and say whatever I want to say or get out of my chair and walk over and whisper gently in a member's ear what I want to say.

Mr. Speaker: I think that brings up another point. All of us have enough respect for the institution that we are not going to do that. That is a matter of personal behaviour and judgement. It is open for all of us to do and it always has been, right from day one, but I have never perceived it to be a common practice. It does happen from time to time in the heat of a debate or if somebody gets exercised about something. Comments are made and then withdrawn.

Mr. Martel: But we do play close to the rule. We play close to the edge all the time.

Mr. Speaker: Sure, but that is part of it. What we have to understand is that parliament is not a decision-making body but a forum for debate. It is a continuation, if you will, of the election process on an ongoing basis. Everybody is going to put his best views forward at the most opportune time, but I think there is a line. We might go right up to the edge, but we all respect each other and the institution enough that we are not going to go beyond it.

11:30 a.m.

Mr. Rotenberg: To pick up on that, Mr. Speaker, I think of the scenario Mr. Breaugh mentioned. If a member does what he has said, that is, feels he can always turn away and mouth things and then deny them, that might happen once in the heat of battle, as is alleged half the time. If the member persists in that, however, you will find the member's colleagues in his own party are going to discipline him in a way the Speaker of the House may not be able to do. There are enough cool heads in every party. Out of respect for this institution, they will not allow one of their own colleagues, let alone the other side, to do that sort of thing.

From my point of view, if one of my colleagues were doing it, I would raise it in the privacy of our caucus to stop that practice, because it reflects not just on the person who says it but also on his party and the whole House.

I do not think you would find that a member of this House would be doing that deliberately over a period of time. There would be a way of stopping that, a way of self-discipline within his own party that would happen. It certainly would happen in our party, and it certainly would happen in your party and in all parties.

Mr. Breaugh: In my own personal experience, I know of

one instance where that is precisely what happened. Somebody said something he really should not have said, and overnight somebody talked to him and said, "Listen, maybe you did not mean to say that, or maybe it just slipped out, but go back in the next day and say, 'I am sorry. I did something I should not have done,'" and that is it. But now we have another occasion when that did not happen, and there is a little bit of awkwardness there.

Mr. Rotenberg: In this case, I agree there is a little bit of awkwardness because it is a matter of two opinions. I personally was not there and cannot judge. You and I have been members of this committee longer than anybody else--we have been on this committee for five or six years--and I would not want this committee to have to sit in judgement on two members or on a number of members, saying, "He said it" and "He did not say it." That is not a function of this committee. There are certain things we judge our peers on, but I do not think that is one of them.

Mr. Breaugh: In my experience, there certainly have been occasions when our caucus gathered to have a little chat with a member about his or her actions. The same process has occurred on our side when we have had some rather famous incidents of people who did or said something that we thought was not right. We have had some interesting private sessions where we attempted to change their minds, so to speak. It has worked in most instances. It did not work in this instance.

Mr. Rotenberg: In our caucus, it probably works a little differently because of having a Premier and a cabinet; there are different strata. I assume from time to time certain members of our caucus have been taken aside by whomever--I was not present--and told, "Cool it, fellow."

The Vice-Chairman: Come on, confession is good for the soul.

Mr. Rotenberg: It never happened to me because I never get into trouble in the House.

The Vice-Chairman: Where does the committee want to go with this? We should get back to the agenda. We have strayed a long way off.

Mr. Breaugh: While I still have a seat, could I offer some suggestions as to how we might proceed?

On the matter of appealing the Speaker's ruling, the committee has gone over that on more than one occasion, and I believe in at least one of our reports on changes to the standing orders the committee is on record as saying we are supportive of the notion that one cannot appeal a Speaker's ruling.

I have some hesitation on that, but in general I am supportive of the idea for practical political purposes. When you go back in there--and it is borne out by the record for the last little while in here--you are not going to overturn the Speaker's ruling. It is useless exercise that does not do much for the process or change the facts in any given situation.

I suggest that we reiterate our position that the Speaker's rulings cannot be appealed. The only caveat I put on is that every once in a while there has to be a way for the Speaker to say, "I would like this to go off to standing committee on procedural affairs," or, "I am not sure of the precedents in the standing orders here." However, that is pretty much a given. Therefore, the first order of business should be that we remove the standing order that provides for an appeal to the Speaker's ruling.

Clerk of the House: Mr. Breaugh's suggestion is correct in that appeals to the ruling should be abolished, but you would also have to provide that no motion of censure could be made on the Speaker for a ruling.

Mr. Breaugh: I do not have any hangup about that.

Clerk of the House: That is how they got around it. Whether they have cleared that, I do not know. It would be easy to say, "Nor can any motion of censure be made relating to a ruling of the Speaker."

Clerk of the Committee: In Britain right now, most of the time they just say the Speaker's ruling shall not be taken as a precedent. The ruling stands on the notice paper. Members who agree with it have their names listed with that of the member proposing the motion. If the rulings attracted 200 or 300 members' names, then the government House leader might be inclined to call it, but in most cases they do not attract very many and so they are just dropped.

There was one over there that one of the members had put on the order paper criticizing the Speaker. He was the only member who had his name on it; no one else would touch it.

The Vice-Chairman: Are there any other issues that come to mind that should be changed in conjunction with this? In other words, the mechanism now is simply a Speaker's ruling. In an emergency debate we get around it by asking, "Shall the debate proceed?" It does not put the Speaker into the process of saying, "I think it is out of order."

Mr. Breaugh: That is the other thing I think we would want to do. I know tha the proposed rule changes we put together as a package some time ago are sitting and gathering dust somewhere, but we have to resurrect at least a couple of them, perhaps just by rewriting the report. I would like to see the committee make the recommendation that we drop the provisions for appealing the Speaker's ruling and, if you like, add that second part.

Second, I think we have to turn our minds to this idea of dropping all the charges. I think when the Speaker ejects a member from the Legislature, that is it. Notwithstanding what might be seen as a truce effort or whatever, we are not exactly dealing out harsh punishment here by sending somebody out for the rest of the day. I really do not think it does us much good to walk back in after a great kerfuffle and say, "As a condition of resuming this

afternoon, these two members are back in." I would like to see us address ourselves to that problem as well. When he throws somebody out, it is game over--for that day, anyway.

If you want to say it can go off to a meeting subsequently or two days later or be reviewed, I do not care about that. But it would be like a referee at a hockey game saying, "You are out of the game," and then the coaches go out in the hall and say, "We are not playing the game unless the referee lets the two guys back in." I do not think you can do that.

Mr. Rotenberg: May I comment on that, Mr. Chairman? That is an important point. There are really two reasons for which a person is asked to leave by the Speaker. One is for failure to obey the Speaker's ruling. In other words: "Please sit down." "I will not sit down." "Please sit down." "I will not sit down." "Please sit down." "I will not." "If you do not sit down, you are out." That is the scenario, and that is really what happened for two of those guys who came back that day. They refused to sit down when the Speaker ordered them to. The point is now whether or not they are gone until six o'clock, for the day or for the session.

The second one is where someone says, "The member for so-and-so is a liar. I will not withdraw it." "You are out until you withdraw." I think that is serious. The rules provide, in effect, that if that member comes back and says, "Yes, I withdraw the remark," then he can come back and resume his seat. He can do it right away or he can come back later in the session. If the Speaker throws him out, as we were saying, he is out until he withdraws, and I think that is the correct procedure. I do not think he should come back.

Mr. Speaker: He does not have to withdraw.

Mr. Rotenberg: No, in the present procedure he does not have to withdraw; he just comes back. But I think we should expand the procedure, as Mr. Nixon has said, so he does not come back until he withdraws.

To go back to the first case--and this is why I pose this to you--if a member is asked to leave because he refuses to obey the Speaker's ruling, when should he be allowed to come back, now or later, and stand up and say, "Mr. Speaker, I apologize to you for not obeying your ruling"? Should he be allowed to come back or should he be gone for the session?

Clerk of the House: Not the same day.

Mr. Speaker: No, I do not think so.

Mr. Rotenberg: All right. When he comes back the next day, he does not apologize to the Speaker. In that case he does not withdraw and there is no apology; he is just gone for the day.

Mr. Speaker: He does not withdraw or apologize to the Speaker. The point is that he does it to the House.

Mr. Rotenberg: He does not apologize even to the House.

Mr. Speaker: No, but that is the point.

Mr. Rotenberg: That is for unparliamentary language. But for refusing to obey the Speaker, which is a little different situation--and people have been thrown out for that--he comes back in and there is no provision for apologizing to the House or to the Speaker for refusing to obey. I would agree with Mr. Breaugh that if you got a two-minute penalty or a penalty for the day, that is it in that situation. He he can come back for the evening session, but he is gone for that session.

Clerk of the House: No, it is the day.

Mr. Breaugh: It is a major misconduct.

Mr. Rotenberg: It is a game misconduct, okay? I would agree with Mr. Breaugh. I do not know if it is the ruling. Maybe it is simply that we have to have an agreement among everybody that there is none of this type of negotiation. I think he is right.

But in the other situation, in which a person refuses to withdraw and is sent out for the day, can he come back an hour later and withdraw or, once he is gone for the day, is he gone for day?

11:40 a.m.

Clerk of the House: He is gone for the day.

Mr. Rotenberg: I would agree with you on that situation.

The second question is whether we change the rules for the person who uses unparliamentary language and refuses to withdraw so that, in effect, he is out until he withdraws, if it is until December.

Mr. Breaugh: Let me try a couple of other things that might get us around it. I have given some thought as to what we might do in this kind of instance, where a member has used language somebody else took objection to.

In a schoolyard you can grab them both by the scruff of the neck and dangle them for 10 minutes until they decide they ought to apologize. Here, we could probably hire two cranes for those two gentlemen and dangle them, but it would be a bit awkward.

Perhaps a way to do it would be to provide some mechanism whereby you could at least let the members register their opinions on the matter. For example, in this instance Mr. Martel went around and said, "Did you hear what I heard?" A number of members said, "Yes." Maybe that should be formalized in a slightly different way. I know that on the record now Mr. Ruston has a motion of--

Clerk of the House: A motion of censure.

Mr. Breaugh: Yes. It is some kind of censure motion.

Perhaps that is not a bad practice. At least you could put on the record: "I heard what that guy said. I am not asking the Speaker to make a ruling on it." Perhaps it would be useful to embellish that practice somewhat.

If a minister of the crown used some words that were really offensive and 16 people heard him, they could put it in a motion and sign their names to it. Perhaps we could encourage that practice as a mechanism to let everybody judge whether he did or did not say it. Perhaps that is as good as we are going to get. We can do that now. It is not a common practice yet, but the mechanism is there.

Clerk of the House: That is right.

Mr. Breaugh: When we get into the verbal stuff, all we do is drag it up again. Nobody is going to admit it, especially if he had stood up afterwards and said, "I did not say that." It is highly unlikely he is going to get up the next day and say, "I lied yesterday, but today I am going to tell the truth." I think that practice might be encouraged a little.

The one I am stuck on is the point Mr. Nixon raises consistently about withdrawing. I do not know how you do that. You are in a bit of a stalemate. If, as he puts it, you use the word "liar," and you must withdraw that before you resume, I think you have yourself in a bit of a bind. On occasions when I have seen us get into that situation, I have not seen a good solution.

For example, I saw Mr. Speaker Stokes censure the former member for High Park-Swansea in a rather unusual way. It seems to me that in that routine we all got ourselves trapped in positions where there was no good way to proceed to get out of it.

I have some sympathy for what he has to say, and maybe we should make some provision in the standing orders so you can kind of apologize but not "apologize," if you know what I mean, and acknowledge it in that way.

However, what if you put it in as stark terms as he does so that you say: "You have used the word 'liar.' The first thing you have to do when you are back in the House is get up on your feet and say, 'He was not lying'?"

Mr. Rotenberg: You do not have to say that. You say, "I withdraw the word."

Mr. Breaugh: However mealy-mouthed you would like to get about it, I personally would be very reluctant. I know the parliamentary games about as well as most people do, and if I felt so strongly that I went over the edge and said, "David Rotenberg, you are a liar," do you honestly think I am going to come back the next day and say: "I want to withdraw those remarks. He certainly is not a liar"?

Clerk of the House: You just say, "I withdraw."

Mr. Breaugh: In pragmatic political terms, there would

be no advantage in coming back the next day. I think you are sort of hung there. I am convinced that Mr. Nixon has a point we ought to try to deal with. I am not convinced that I see a mechanism which is really going to work.

Mr. Rotenberg: With respect, the point the Speaker and the Clerk of the House are trying to make on parliamentary language or parliamentary tradition is that when you come back the next day, you are not apologizing. You are withdrawing the word "liar"; that is all.

Mr. Speaker: No. You are withdrawing the remark.

Mr. Rotenberg: You are withdrawing the remark. The point is that you may call it mealy-mouthed, but I do not call it mealy-mouthed, because at the original point or at some other time you could stand up and say: "The honourable member's statement was not in accordance with the facts. The honourable member said this and the facts are that." But you do not accept his statement. You can deny his statement. In this case, Mr. Martel said, "Seventeen members heard the honourable minister say that." He is getting up and giving his point of view without using the word "liar" and without using unparliamentary language.

It gets back to the original point we made. If we have a parliamentary tradition, which you may not believe in but I do, and if we have a certain respect for the chamber, there are just certain ways you can say things which you can get away with, and certain ways you can say things which you cannot get away with.

The point we make, and I think the whole point, is that the things that are beyond the pale or over the edge you just do not do and, if you do it deliberately or inadvertently, you must get up and withdraw the remark, which is not withdrawing the thought.

Mr. Breagh: You are quite right; that is a parliamentary tradition in which I do not believe. I do not believe you can call somebody a liar one day, walk back in and take a waltz the next day and think that is fine. I do not believe that is fine at all.

Every time I have heard this kind of withdrawal made, it comes to me in the most weaselly tones. They call you a liar and they walk in the next day and say, "I did not intend to offend you, Mr. Speaker." That is generally the way that it sounds.

Clerk of the House: They say, "I withdraw the unparliamentary term."

Mr. Breagh: Sometimes they do.

Mr. Rotenberg: With respect, having to do that, having to withdraw it or having to serve in the penalty box until you do that, puts some restraint on the use of the word.

I happen to think--maybe you disagree--that even in Elie's case, even if you feel an honourable member opposite is not telling the truth, there is something about this chamber that you

do not use the word "liar," and there are certain other words you do not use.

Maybe it is just skating around it, maybe it is just using euphemisms, but I happen to believe there is a certain dignity about the chamber which goes far above and beyond anybody's sensibilities or anybody's personalities.

Mr. Breaugh: Do you think there is dignity in this chamber?

Mr. Rotenberg: Yes, I think there is.

Mr. Breaugh: On rare days.

Mr. Rotenberg: I think there should be. I think, to go along with what Bob Nixon is saying, when a person goes over that edge and drags the chamber down even further than it may be, we have to put a curb on that. From the point of view of the public of Ontario and the school kids coming in and watching and all that sort of thing, it reflects poorly on us; and, poorly as it reflects on us, let us keep some lines drawn so that it does not reflect any more poorly on us as a group, without discussing any individual.

Clerk of the House: There is a rather interesting precedent of very many years ago where a member made an accusation against a minister during his speech on the throne debate, I think it was. The minister objected and the Speaker ruled that he would have to withdraw. He said, "Mr. Speaker, as a member of this House, I withdraw."

The Vice-Chairman: Are there any legal implications here with respect to libel immunity for the House? Is that one of the background reasons why these things cannot be allowed to stand?

Mr. Breaugh: One of the reasons you cannot be sued for what you say is that you are not supposed to call people liars.

The Vice-Chairman: Is there not a very good legal reason for having to have those remarks withdrawn?

Mr. Breaugh: Yes, that is the practice. The reason you have freedom to say whatever you want to say and people cannot sue you is that there are supposedly some limits to what you are free to say.

The Vice-Chairman: That is what I am getting at. That has not entered the discussion here this morning, and I am just wondering whether the Speaker would have any--

Clerk of the House: Members are freed from having actions for libel or slander brought against them for anything they say in the House or in a committee of the House, but all parliaments have always reserved to themselves the right to discipline their own members. If a member says something that would be libellous outside, he cannot be sued for it, but the House can discipline him.

The Vice-Chairman: Is not the gut issue of this rule that certain things are not there so that prevents the House from having to do those sort of things?

Clerk of the House: The point is that members appreciate generally that they should not abuse their privilege of freedom of speech. They should not abuse it because they have it and it should not be abused.

Mr. Rotenberg: Maybe to try to bring things to a head, there is not quite a consensus here, I know, but the suggestion from Mr. Nixon, who has made the suggestion quite often, was that there should be some change in our rules so that a person who uses unparliamentary language, in the Speaker's opinion, and is asked to leave, should have to withdraw before he is allowed back in. There is no consensus on that rule.

What I would think we should do, maybe just to move this along a little bit, is without deciding whether we are going to accept it, at least to ask direction from the clerk of the committee and then the Clerk of the House. We would ask them to indicate--if we want to adopt that principle--the form of rule they would bring in and how it would operate. We would have something much more concrete before us and then we as a committee could judge whether we want to adopt it.

I would be prepared to move a motion, if that is acceptable, to ask the Clerk to draw up the kind of rule which would, in effect, implement Mr. Nixon's request. We could then see what it looks like and decide if we want to recommend that. At least, it would give us much more of a handle on it.

Clerk of the House: That would not be difficult.

Mr. Breagh: Do we have consensus then to try to draft a report that would deal with the three items where we have agreement and attempt to put some options in front of us on this fourth item where there is no agreement?

Mr. Rotenberg: The three items on which we have agreement are which?

Mr. Breagh: No appeal from the Speaker's ruling; no deals, if I may put it that way, to have the charges dropped; and some provision, when there are disputes between members, to begin a practice of censure motions where nine members could sign their names or whatever.

Clerk of the House: And it sits there on the paper--

Mr. Breagh: Yes.

Mr. Rotenberg: I do not think you need any new rule for that.

Mr. Breagh: No, not a new rule; but I think we would have to clarify what the practice is, what the rule is and how one

would go about that. I would also be prepared to look at some options about what one might call mandatory withdrawal.

Mr. Rotenberg: I can agree with that kind of report; I can agree with all four items.

Mr. Breaugh: Can we have that for next day and perhaps we could go through some motions on it?

Mr. Rotenberg: If we can make some agreement on that, we should put it back--you know where our procedural report is sitting now--to the House leaders and the powers that be, wherever they are. In effect, we would say--

Mr. Breaugh: And they will make some kind of deal on it.

Mr. Rotenberg: In effect, we would be saying we would like this to be done in advance of all the other things we have suggested as far as changing the rule book is concerned.

Mr. Breaugh: I would do it the other way around. I would say, "After you have made all the other rule changes we have asked for"--

Mr. Rotenberg: There is one other thing I would like to put into your report, Mike. The one situation which we have dealt with already but which has to be included is changing the emergency debate rule. When we say there will be no more appeals of the Speaker's rulings, we should also ask the Clerk to indicate to us where else a ban on Speaker's rulings might change things the House might really want to do.

There is one instance, as you know, on the emergency debate. There may be other situations where we would use the Speaker's ruling and we might be able to change the rule to have something else. There may be other situations where a ban on the Speaker's ruling might act adversely to the will of the House, as it would in an emergency debate situation and other situations.

Clerk of the House: As far as an emergency debate is concerned, it would not be difficult to--

Mr. Rotenberg: We have already made a suggestion for a change of that rule. I am asking if there are any other similar situations where we would have to make a rule change if we abolish appeals to Speaker's rulings. We would like a report about that.

Mr. Breaugh: Okay. Let us take a look at it.

The Vice-Chairman: Is there anything else on item 1 on the agenda? I was going to say if there was nothing else--

Mr. Breaugh: May we eject the Speaker now?

The Vice-Chairman: The Speaker was going to say something else a while ago, but he got cut off--no, I am sorry, it was the Clerk who wanted to say something else.

Clerk of the House: No, we covered it all.

Mr. Rotenberg: Mr. Chairman, we should thank the Speaker and the Clerk for being with us this morning and being of help to us, because they have been.

The Vice-Chairman: Is there anything else we have to do this morning? It has been suggested that we go in camera for a short session on the rest of the agenda.

The committee continued in camera at 11:53 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

PARLIAMENTARY LANGUAGE

THURSDAY, NOVEMBER 29, 1984

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)
VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)
Breaugh, M. J. (Oshawa NDP)
Charlton, B. A. (Hamilton Mountain NDP)
Cureatz, S. L., (Durham East PC)
Edighoffer, H. A. (Perth L)
Epp, H. A. (Waterloo North L)
Kells, M. C. (Humber PC)
Mancini, R. (Essex South L)
McNeil, R. K. (Elgin PC)
Rotenberg, D. (Wilson Heights PC)
Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Clerk: Forsyth, S.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO
STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, November 29, 1984

The committee met at 10:19 a.m. in room 228.

PARLIAMENTARY LANGUAGE

Mr. Chairman: Gentlemen, we have in front of us a confidential draft report. Shall we stay on Hansard? Is that in order?

Mr. Breaugh: I do not know why we should go in camera.

Mr. Chairman: The chairman is just putting out the question.

Mr. Breaugh: What a Timbrell clone you have become.

Mr. Chairman: Since no one suggests we go in camera to discuss this confidential draft report--

Mr. Breaugh: It is the new Mulroney style. You always leave the tapes running.

Mr. Chairman: Are there any members who wish to speak on this matter?

Mr. Breaugh: The only problem I had with it comes in the last recommendation. I think the first ones are in line with what we talked about before, basically dealing with there being no appeal to a Speaker's ruling.

When we dealt previously with the matter of not being able to appeal a Speaker's ruling, we did so in the context that a package would be put together involving some compromise on all sides. One compromise I am happy to make in that kind of situation is to say that the rulings of the Speaker are not appealable.

I do not look on it quite as favourably when it is put all by itself, as it is here. I do not have a real problem with it, but I do know that there will be those in my caucus, for example, who will say that we are being nickled and dimed here.

Where I am caught a bit is that in the old parliamentary fashion I really believe one cannot appeal a Speaker's ruling. In the pragmatic day-by-day politics of the Legislature, we are giving away something else and not getting much in return.

The only difficulty I had was on page 7. I had a problem with only about four words. It says in 20(c), "and withdraws the offending words." The difficulty I have is that I have seen certain kinds of situations arise. To be specific, the former member for High Park-Swansea had said some things the Speaker of

the day did not like, and we got ourselves into a situation in which the member was essentially being asked to withdraw or to apologize. It became very awkward, to put it politely.

I know this is Bob Nixon's favourite piece of business. I think we are better off without it; so I would recommend we delete the words in 20(c) "and withdraws the offending words." For a variety of reasons, I think we are better served by not having that in there.

I know the Speaker will ask the member to withdraw; I know most members will withdraw their words and will do so readily. This does not go quite so far as to demand an apology, but I think we are begging for an argument, and it gets very complicated when we get into these things.

While I have the floor, I might just as well finish the last part of it. I want to bring to your attention that the part that is here as 20(g), according to Smirle, has been the practice. It is not a practice adhered to in all situations, but it is true that once you have been named you are excluded from the chamber and the committees.

I do not have any real problem with that. I seem to recall a few occasions when members have been expelled from the chamber and they promptly went up into the gallery and waved at everybody.

Clerk of the Committee: In some jurisdictions they include in that provision "and the galleries." I do not know if it is needed.

Mr. Breaugh: When we say "excluded from committees," do we mean they cannot go and watch a committee or do we mean they cannot sit as members of the committee? My reading would be that you lose your ability to participate in debate, to vote and to sit at the table but not that you have to stand out in the hall.

Mr. Chairman: My thoughts are on the same two things. In (c) it says "not exceeding two weeks," and then it goes on with words that extend the two-week period indefinitely. It was my feeling on reading this that to exclude a member from committees does a disservice not so much to him as to his constituents. You are leaving his constituents without any representation.

Clerk of the Committee: He is excluded already, Mr. Chairman. The practice is that he is excluded. It does not state in the standing orders that he is, but it is the practice.

Mr. Chairman: But he is not excluded indefinitely. Reading clauses 3(c) and 3(g) together means that his riding is without a member indefinitely, and that bothers me.

Clerk of the Committee: At the present time if he were suspended from the service of the House for two weeks, he would not be able to go into the committees for two weeks.

Mr. Chairman: That is right, but that is two weeks. Read in conjunction with 3(c) the way it is now, he could be excluded forever.

Clerk of the Committee: If force were used to remove him, he would be out of the House and the committees for the balance of the session.

Mr. Breaugh: The problem this causes me is it sets up a scenario where somebody gets the heave for a two-week period, the longer suspension. Suppose he has served his time. We are now adding clauses that mean he has to come back in and withdraw his words. On previous occasions, that has got us into some difficulty. I think it is better left out of the standing orders.

You can argue either side of it, but I am trying to be a little practical. I have seen occasions where we all started down this road, thinking it was the way to proceed. After we got into it, I think we all agreed it was silly. There was a dispute under way. The dispute never got resolved. I do not think it serves much purpose to add the words "the person must withdraw."

Mr. Rotenberg: You are raising Mr. Nixon's argument that if you have committed an offence before the House, in effect you cannot become an honourable member again until you have purged yourself of that offence, that is, withdrawn the remark. If you say, "So-and-So is a liar," it is on the record until the words are withdrawn. In effect, you are still in contempt of the House. That is Mr. Nixon's argument.

I have some sympathy with that point of view. It is not like a hockey game where you trip somebody, take your two minutes and then you are back in business again. You have violated a rule of the House and the dignity of the House. I have some agreement that a person has to withdraw the remark.

It requires a two-week suspension. I do not know what the magic of two weeks is. If a person says, "The member for Oshawa is a liar"--of course, I would never say that about him--then until the remark was withdrawn, be it the next day, two weeks later or two months later, the argument that the constituents are without a member may be so. We had a case like that in the last House. The constituents were without a member for some six or seven months, because he refused to withdraw.

However, either you take seriously the fact that you do not allow honourable members to call other honourable members liars and all those words, or you do not take it seriously. As I say, it is not like tripping in a hockey game. If you are in violation of the House, you are in contempt of the House. Until he has purged himself of it, I think the person should be suspended.

Mr. Nixon put the point forward well. As he says: "Nobody is going to call me a liar and get away with it. Being out of the House for a day or two does not change the fact he has called me a liar and he has not withdrawn it."

Mr. Breaugh: The problem I have with Mr. Rotenberg's position is, for example, with the matter that is currently before the committee. If you said to somebody like Elie Martel, "You will not get back in until you apologize or withdraw those words--"

Mr. Rotenberg: I did not say "apologize." There is a difference between apologizing and withdrawing.

Mr. Breaugh: This is even if you said he had to withdraw the words that offended the Speaker. We now have a situation that has, in effect, been dealt with. If you put in these words, I almost guarantee you it would not have been dealt with by now. There is no way he would do that.

My vision of what has transpired is that somebody said something we thought was very offensive, an obscenity. Mr. Martel responded in kind, so to speak. There was a stalemate. We have mentioned some things that would allow us to deal with the motion of censure idea.

If you carry it forward to the extent that someone mutters an obscenity at a member and he gets up and says, "He has to withdraw," the guy who muttered the obscenity could stand up and say, "I never said that," and we have to take his word for it. However, if the person who was offended says, "You are a liar," he is going to get punished to this extent.

I think we have then extrapolated a minor incident into a major one and we have come down on the wrong side. There may be situations when I would support what you have said. However, I think you are taking a difficult situation and making it worse.

Mr. Rotenberg: I could respond, but I think Mr. Edighoffer wants to say something.

10:30 a.m.

Mr. Edighoffer: I had a little experience with the previous encounter, Mr. Stokes's encounter with the then member for High Park-Swansea. I did not see anything wrong with the Speaker being in the chair every day and looking at that person's chair to see whether it was vacant or whether the member was back in and asking him to withdraw. I feel that if the offence is serious enough, the member should withdraw.

I read this just now for the first time. The way it is worded, you could actually call a person a liar in the House and if the Speaker said, "You are out for the day," you come back just the way you do now. Is that the way you read it? Not if it is a motion, of course, but who is going to make the motion?

In other words, there are two standards here. You could call a person a liar and be sent out of the House by the Speaker for a day and come back in without withdrawing it. If there is a motion, then you have to withdraw it. It just does not make sense to me.

Clerk of the Committee: When I drafted it, I tried to follow basically what we have in the present standing order 20, where we have a minor offence and an offence of a serious nature. The Speaker said in the committee he felt that one member calling another a liar was a matter he considered to be a serious offence.

Standing order 20(b) says, "When a member is named by the Speaker...but if the matter appears to the Speaker to be of a more serious nature"--and I have listed examples, including charging another member with corruption, deliberate dishonesty or uttering a deliberate falsehood; that gives instruction to the Speaker as to what is to be considered a serious offence--"he shall forthwith put the question on motion being made." The motion, as we said earlier in the report, would normally come from the minister leading the House, either Mr. Wells or whoever is leading the House at the time.

Mr. Rotenberg: That is not in the present standing orders, the motion bit, is it?

Clerk of the Committee: Yes.

Mr. Rotenberg: We should consider this as well, because you talked about taking away the appeal to the Speaker's ruling. This is all part of it. I tend towards not having a motion put in the House but really letting the Speaker make the decision. Any time you put a motion to the House, "Shall the member be suspended?" it automatically becomes a partisan vote.

Theoretically, we must have faith in the impartiality and independence of the Speaker who is there only to enforce the rules of the House. If we do that, it seems we incorporate, just as Hugh says, the idea there is not a major offence and a minor offence; calling a person a liar is calling a person a liar.

If we go along with the suggestion, which Mike does not agree with, that you are out until you come back and say, "I withdraw," it would seem we really do not need the other extra procedure of the Speaker saying, "It is a major penalty and, therefore, the House has to have a motion, rather than a minor penalty that I can deal with myself."

There should be only one penalty where the Speaker, in effect, says, "You have used unparliamentary language; I would ask the member to withdraw." He asks him a second time and a third time--it almost becomes an auction--and if the member refuses to withdraw, he says, "I will have to ask the member to leave the chamber," or however he says it.

In effect, standing order 20(c) then kicks in. Whether it be the next day, two weeks later, two months later or two years later, until such time as that member says, "I withdraw the remark," the member is no longer an honourable member and, therefore, is excluded from the House. I do not think you need to have the distinction of whether the Speaker says, "We need a motion," or "I can do it myself." The one procedure should follow.

Mr. Watson: I am listening to both sides of this. Mr. Breaugh wants it to read "and withdraws the offending words." The phrase before that is, "the person returns to the House with the Speaker's consent." If we take out "withdraws the offending words," would it be your interpretation that the Speaker may determine that you are not going to come back in until you withdraw? In other words, a person cannot get back in until then?

That is really what happened with Mr. Stokes. The member came back but the Speaker refused to see him. He could not come back and be recognized without the Speaker's consent, and the Speaker never consented. Am I right?

Mr. Edighoffer: Unless he apologized.

Mr. Watson: That is right, but it was really the Speaker's ruling. If you take that last phrase out, are we legitimizing what Speaker Stokes did? I am told there was some question as to whether he had authority to do what he did. In other words, we are giving the authority to the Speaker to make a decision.

Mr. Breaugh: Maybe I should try to respond to Andy, because this is important. We are pushing the power of the Speaker. To say the Speaker has to give consent is reasonable, given the circumstances. To say the member must withdraw, pushes it a bit more.

My problem is that our first recommendation is, whatever the Speaker rules, you cannot do anything about it. I have some concerns here. Not that any Speaker I have met was nasty, but the member in this situation really has no recourse at all. Somebody can lie about you, and you cannot say he is lying about you; you are going to be thrown out of the joint until you go back in and, in effect, lie yourself and say, "He is not a liar."

I am concerned that you have put the member in an indefensible position.

Mr. Watson: I have no problem there, but I understand you have. I am trying to find out, in terms of practice, whether you are happy that the phrase "with the Speaker's consent" may mean, for 99.9 per cent of the time, the Speaker establishes the principle that you withdraw the comment when you come back. What happens if a situation arises where the member does not do that?

Maybe I am wrong in envisaging it, but the problems we have had have tended to be with opposition members; I can visualize getting into problems on the government side with ministers. This cuts both ways.

Mr. Breaugh: You bet it does.

Mr. Watson: I think there is some judgement with the Speaker. If he established that as a principle, are we prepared to give him the power of saying it, as with the Stokes case?

Mr. Breaugh: I probably should not respond like this, but I feel I have to. My real difficulty with this is that I am prepared to say you cannot appeal the Speaker's ruling. As a general rule of thumb, that seems to be reasonable. But I am not prepared to say that a Speaker unilaterally can eject somebody from the Legislature, that we have set out terms and conditions under which that person can never return to the Legislature and that there is nothing we can do about it.

Mr. Rotenberg: We are looking at the controversy involving the member for Sudbury East (Mr. Martel) and the Minister of Correctional Services (Mr. Leluk) and so on. Let us look at it in its proper context. I was not in the House at the time it was said that day, so maybe I can talk about it.

Had the Speaker heard the alleged remark by the minister, the Speaker would have asked that person to withdraw. He did not hear it. As our clerk said, one honourable member stood up and said, "You said it"; another honourable member stood up and said, "You did not say it." The Speaker, not having heard it, really cannot arbitrate it. I do not think any other member of this House can arbitrate it. It is really the court of public opinion that will do it.

Looking at the point of view of a person in the position of the member for Sudbury East, he feels he has been offended; the person said something at him and the person will not admit it, and he feels the person is not telling the truth. As was pointed out so well last week by others, the member for Sudbury East has all kinds of recourse without saying, "The honourable minister is a liar." There are other ways you can say that and get your point across. He did it quite well when he named eight members who said they heard it. He could have said, "I have heard the honourable member's statement and that is not in accordance with the facts."

There are ways of calling a person a liar without calling a person a liar. There are ways of doing it in parliamentary language. You may say that is fudging it, but we do draw lines; we say there are certain words honourable people use and certain words honourable people do not use. With all due respect to the member for Sudbury East or anyone in his position, when he does use a word which we have all agreed is unparliamentary--and there are a number of them--he has broken the rules of the House. One cannot break the rules of the House.

10:40 a.m.

Everybody knows he broke the rule of the House; he said, "You are a liar." We all agree he broke the rule of the House. The way to purge yourself of having broken that rule is to say, "I withdraw the remark." In my opinion, that should be done, and it does not take away any member's right to say that the member opposite is not telling the truth or is misleading the House. There are ways of doing that.

Mr. Breaugh: You cannot say either of those things.

Mr. Rotenberg: You cannot say either of those things,

but there are ways of saying them and there are ways of getting your point across to the public, to the press or to whomever you want to get it to without breaking the rules of the House.

We are probably making too much out of what is a simple thing. We have drawn a line. On one side of the line you can get away with all kinds of things. You know the famous Diefenbaker way of doing it, when he said, "Mr. Speaker, can I call the honourable member a liar?" The Speaker said, "No, you cannot," and Mr. Diefenbaker sat down and smiled. He called the member a liar without doing it. There are so many ways of doing it without breaking the rules of the House. Anybody with a little bit of inventiveness can do it.

It is my opinion, without reflecting on any member, that if we want to preserve a feeling for the dignity of this House we should make it positive that a person must withdraw or he does not get back in. I feel that way.

Mr. Cureatz: I am very sympathetic to Ashley Day's approach to the problem. I know from the times when I was in the chair that it is difficult in the heat of the moment to start thinking through in your mind the whole lengthy process that might or might not have to be followed in a particular situation in which you have to decide within five or 10 seconds.

On the other hand, I am sympathetic to Mike's concern. The only trouble is that I cannot yet envision an appeal process whereby a member can question the ruling of the Speaker. I just do not know how that would work. What do you do? Do you come before the procedural affairs committee? I am willing to listen, there is no doubt about that.

On the other hand, what do you do if someone says, "The honourable minister is a liar"? What is the appeal process? Is the appeal process that the particular member has to bring in evidence that the minister is a liar? I do not know.

Mr. Breaugh: My problem is that I do not want to get into an appeal process. This is why I am not happy about, but I am agreeable to, the notion that you cannot appeal the Speaker's ruling.

The difficulty is that when you set a condition that says not only that you cannot appeal the ruling of the Speaker but also that you must go in and withdraw, apologize or whatever, you put the extra step on it, which is too much.

The way it exists now it is a bit of a stalemate. The Speaker says you used unparliamentary language and you must leave the chamber for a day, or a motion is brought in that says you must go for two weeks. At the end of that period the matter has been dealt with.

If at the end of that period the matter has not been dealt with and if the member who may feel he is the aggrieved person has to get up and apologize, I can guarantee--if we are talking about the member for Sudbury East in this instance--that if he were not

only thrown out for a day but also made to come back the following day or two weeks later and apologize or withdraw, I do not think he would do it. Then where are we? Where do we go from there?

Mr. Cureatz: What do we do then?

Mr. Breaugh: Right now he would come back in and--

Mr. Cureatz: No, I do not mean now. I mean how do we accommodate your concern?

Mr. Breaugh: I think you have to take these last few words out of here about withdrawing the offending words. I am happy that it be the normal practice; I do not have any problem with it. But to put it in the standing orders, which is in essence to require you to admit publicly that you were wrong, is just one step too far.

Mr. Cureatz: So you do not like the approach of the member for Brant-Oxford-Norfolk (Mr. Nixon) that if one calls someone a liar, he has to withdraw it no matter what.

Mr. Watson: He likes the approach. He just does not want to put it in formally.

Mr. Breaugh: What I want is a little latitude here. On most occasions I think almost everybody in there would walk in and say: "I used some words I should not have used. Here is another way to say it, and I will do it that way." That is what happens almost all the time.

There is the rare occasion when this is not what happens. In the situation that is currently before us we have on the record now, I think, 10 members of the Legislature who have said, "That is what the minister said; I heard him." We have accepted that and put it on the record. If we now say that the member who was insulted by the obscenity has to stand up and withdraw, I do not think it is going to happen. I think you are just setting up a scenario that leads you down a road you do not want to go on.

Mr. G. I. Miller: I noticed the member for Oshawa indicating that there are no appeal procedures, but I think that in the particular case we are discussing you are really calling the other members liars, without saying it in that way. There may not be an appeal procedure. I think the Speaker and the Clerk made that point the other day. Maybe in extreme cases there should be.

I agree that the Speaker did not hear what was said--he was far enough away that is very possible--but it seems to me that all those people who implied they heard it are being accepted as liars also and there is no real way to clear up that matter.

To protect the House and its honour, I think withdrawing is not all that difficult, if that is the rule that has been laid down. You could make your point, and if that is the procedure, I think perhaps it should be left in.

Mr. Rotenberg: I disagree with Mike. Maybe it is a basic

philosophical disagreement. In the case we are using as an example, no one is saying to the member for Sudbury East that he must withdraw the thought that the minister did not tell the truth in the House. All they are saying is that he must withdraw the word "liar."

In other words, you are not forcing him in this case, or anyone else in that position, to say, "Hey, I was wrong and he was right," when in his mind he thinks differently. You are not asking him to do that. All you are asking him to do is to withdraw the particular word he used and to say it in some other other fashion that is parliamentary.

I can understand what you are saying, and if I were the member for Sudbury East in his position--and I am not judging it--and had the thought he has, on a matter of personal principle, I am never going to come in and say: "Hey, I was wrong and the minister was right. He told the truth and I did not." I can understand him not wanting to do that. We all have a bit of a stubborn streak in us as well as a bit of pride.

I am not asking him to do that. These rules are not asking him to do that. All the rules are asking him to do is to withdraw the word, which is different from withdrawing the thought. He can withdraw the word and he can say: "I withdraw the word 'liar,' because that is unparliamentary. It is still my opinion that the minister's statement was not in accordance with the facts." He has still kept his pride, I think, but he has followed the rules of the House. You may consider that a word game, and maybe it is, but you have a certain line drawn. Within the line you can get your point across, but if you cross the line, you have to withdraw.

Maybe the member for Sudbury East and some others are different, but I know if I were in that position, I would not want anybody calling me a liar and I would not want anybody saying I am wrong. If I thought someone else was lying, in the heat of the moment I might use the word "liar," although I do not think I ever have in the House, but in the quietness of second, sober thought, I would certainly withdraw it and obey the rules, but get my point across. I think a person in the position of the member for Sudbury East can do the same.

Mr. Cureatz: Mike, can I ask--I might be swayed yet--whether you are saying that the matter would be disposed of by the Speaker naming the offending member for the day or the two weeks and that is it? He comes in, but we all know the game. The Speaker had asked the member to leave and the Sergeant at Arms comes out.

Are you saying that kind of focus is enough to indicate to the members of the House and everybody else watching that a particular member, for a particular time, has gone contrary to a standing order and, in so doing, is gone for two weeks? After that, if he is back, he is back and this matter has been dealt with.

Is that it in a nutshell? You would feel comfortable if, instead of pushing it further by having the guy come back and have

to say, "I withdraw the word 'liar,'" you are saying the focus and the attention has done its job and we should carry on.

Mr. Breaugh: Yes, I believe the only thing wrong here is that it goes one step too far.

Mr. Cureatz: You mean this does or what you are saying?

Mr. Breaugh: This proposal as it is drafted. The real difficulty I have is that, having named a member and, if it is a serious offence, having him expelled for two weeks, you make the member come back in and withdraw. I think the sensible thing is--

Mr. Cureatz: You are saying no.

10:50 a.m.

Mr. Breaugh: If I think I have done something wrong, if I have used some words I should not have used, and it is a simple matter, I am going to go back in and withdraw. That happens regularly.

If it were a serious thing, if I thought it was serious enough that I would take a two-week suspension from the Legislature, I doubt very much that you would get me to go back in and start off by admitting I was wrong. If I took a two-week suspension, it seems to me I would tough it out.

Mr. Chairman: We are focusing on this "You are a liar" in relation to some purported obscenity. My mind thinks along lines where, instead of the purported obscenity, somebody stands up and says that member X across the way suggested he would not work hard to get plant X for his riding, that he would let me have this one if I would ease off, and he said there would be some quid pro quo along the line. It would be something politically damaging, not an obscenity but something seriously politically damaging. Then the other man is virtually forced to say, "You are a liar."

The first man withdraws, if asked. I do not know how that second man, given that set of politically damaging words, can then withdraw. He is in terrible trouble back in his own riding. Even withdrawal seems to imply back there that perhaps there is some truth to it.

Clerk of the Committee: The member who has been falsely accused can stand up on a personal statement and make a statement in the House.

Mr. Breaugh: Big deal. I know what the headline would be and it would be on page 6 under the obituaries.

Mr. Chairman: You may be technically fine here, but you know what the headlines are going to be back home as soon as you withdraw.

Mr. Rotenberg: I think you have the same problem. No one is saying the member has to say that the first member was telling

the truth or in any way has to withdraw the thought that the first member was full of you know what.

Mr. Chairman: It is the perception out there; the damage is done.

Mr. Charlton: That is the point I want to make. Mr. Rotenberg seems to be of the opinion that, because the members sitting in the House understand that a withdrawal is not an admission of error on one's part, things that happen in the House are clear out there in the real world. In many cases, they are not clear at all. That is the ultimate problem we have.

In the scenario the chairman set out, or in the scenario we were talking about before relating to the member for Sudbury East, you may understand that when the member for Sudbury East gets up to withdraw, he is not saying he was wrong; but that is not necessarily the perception outside this place or the feeling the member gets left with.

Mr. Rotenberg: A member never should use the word "liar" in the first place, because if he does it right in the first place he will have got his point across without having to withdraw anything.

Mr. Breaugh: I would say no to that. I think Mr. Charlton has a valid point. We are playing parliamentary games here. Those who are fans of parliamentary procedure understand the games; the rest of the world does not.

Mr. Chairman: It is the real perception.

Mr. Watson: I am trying to find some middle ground. It is not the last phrase that bothers me in that thing; it is the second-to-last one.

Mr. Breaugh: The consent thing.

Mr. Watson: It is "with the Speaker's consent." To me, that says the Speaker has a lot of power as to the terms and conditions the person can come back under.

Clerk of the Committee: The reason that is there is so that a member does not just walk in. The member would advise the Speaker that he or she wishes to withdraw the offending words. It would be given automatically. It is a means for the Speaker to have notice and then recognize the member first thing to make the statement.

Mr. Watson: Does that allow the Speaker to put conditions on the return?

Clerk of the Committee: I guess the conditions are, "Are you coming in to withdraw the words?" "Yes, Mr. Speaker, I am coming in to withdraw the words." "Fine."

Mr. Breaugh: Mr. Watson, I understand what you are saying, and I think there is some validity there. I originally

read that to mean there is provision for a little leeway with the Speaker with respect to having a private conversation with a member or something such as that. I would be happiest if that clause (c) simply read, "When a member has been suspended under clause (b), this suspension shall be for a period named in the motion, not exceeding two weeks," period.

Mr. Watson: I can see giving the Speaker some latitude. The Speaker may give the opportunity to a member to rephrase his comments. He might use that term on a minor matter. He might ask, "Are you prepared to withdraw?" He might say to a member, "You cannot return until you apologize." If the Speaker has had a direct argument with a member and the Speaker has been offended, he might say, "In terms of my integrity, that member owes me an apology." There are subtle differences.

Mr. Breaugh: I am happy with the notion that you cannot appeal what the Speaker says. On the other hand, I do not want to give any Speaker the power to expel a member without appeal for an indefinite period, which is what this provision does.

There have been occasions at Westminster and at Ottawa where the Speaker did not like the member's dress, for example. I can remember one occasion when the Speaker at Westminster thought members should always wear ties. When it became the practice that certain members did not wear ties, he simply would not recognize them. That is no big deal.

We are giving the Speaker the power to throw out a member. That is okay by me, for a day, even for two weeks with a motion, but to say the Speaker can throw a member out forever is quite wrong. On the occasions when I have been involved in a situation where it lasted for more than a brief period, I think we all came to the conclusion we had put ourselves on a one-way street and we all wanted out of it. The dispute was long forgotten except that the constituency remained unrepresented and there was no good way for the Speaker to move and no good way for the member to move. Everybody who sought to find an accommodation to resolve the dispute wished we had not been in that dispute in the first place.

Mr. Rotenberg: I have to discourage you. You are talking about Mr. Martel's privileges now, but the former member for High Park-Swansea accused me and one other member of political corruption. That is a pretty serious charge. If you gave him a minor penalty, the two-week penalty and then coming back, that stands on the record of the House.

Mr. Breaugh: Yes.

Mr. Rotenberg: I did not get up and call him a liar. I got up on a point of privilege and said he was totally incorrect. Mr. Martel may have a point. He says, "I am not going to give up, because the man did not tell the truth in the House." From the point of view of a member who was in my position, or similar, in effect, being accused of political corruption, I think Mr. Stokes, the then Speaker, was right.

If the charge could be justified, as I said in the House,

then I would have to resign my seat. Putting that charge on the record and leaving it hanging without in any way justifying it is not a proper thing to happen in the House. The person making that kind of a charge should be out until he withdraws the charge. It is a very serious situation, not a case for the discretion of the Speaker. I do not think the Speaker should have the discretion on how long he is out. The sooner he gets back, the sooner he will come back to it again. Either you believe in the rules or you do not.

Mr. Breaugh: Now we have talked about it for a while, the problem you have created for me is, if you want to leave it this way, then I cannot go along with the notion that you cannot appeal the Speaker's ruling. I have no problem with that going on for a day or for two weeks, but if, in my opinion, the Speaker is dead wrong and has taken away my possibility as an individual member or member of a political party to appeal--it is just long gone and it is his word and we do not have much of a say on it--that is untenable in my view. I cannot go with that.

Mr. Charlton: You cannot have both.

Mr. Breaugh: Yes, you can get one but you cannot get two.

Mr. Rotenberg: You want the words "until the member withdraws."

Mr. Breaugh: I would be happiest if you rewrote 2(c) simply to end it after "not exceeding two weeks" and remove the rest of the wording.

Mr. Cureatz: I do not like that. I would rather have it in.

Mr. Rotenberg: In your scenario, if the member returns with the Speaker's consent, it would leave the power with the Speaker not to give his consent until the matter is withdrawn. You are leaving the withdrawal or nonwithdrawal to the discretion of the Speaker. If the Speaker thought the offence was serious enough, as Jack Stokes did, he, in effect, made the ruling that he would not give his consent until the man had withdrawn. Under your scenario that could happen, but it is not mandatory.

Mr. Breaugh: He would have to put a motion.

Mr. Rotenberg: I have some problem with the motion, too, but, in effect, clause (c) says he cannot return without the Speaker's consent.

Mr. Charlton: Mr. Breaugh was suggesting you take that out.

Mr. Breaugh: Yes.

11 a.m.

Mr. Rotenberg: Do you want to leave "with the Speaker's consent," or do you want to take that out, too?

Mr. Breaugh: I would prefer to take that out.

Mr. Charlton: And the wording after "two weeks."

Mr. Cureatz: But you have an appeal.

Mr. Breaugh: I could live with the idea that you cannot appeal it as long as you remove all of this discretion. I am saying you are giving too much power to the Speaker.

Mr. Charlton: And taking away the right to appeal the Speaker's ruling.

Mr. Cureatz: I am sympathetic with that but I do not like going with an appeal from the Speaker's ruling. It is another whole harangue. People get up in the House and say, "He should have decided this way," or "He should have decided that way." Hell's bells, you get nowhere anyway.

The issue has been focused on; it was decided on and we carry on to the next one. If we are looking for a compromise, I would much rather go with your first one than having to appeal the Speaker's ruling.

Mr. Rotenberg: We really have not solved the basic point, Mr. Nixon's point. I guess we have a basic disagreement between us in this committee. When a person says you are a liar, you are a hypocrite, whatever those unparliamentary words are, do you take a minor penalty and come back without withdrawing, as Mr. Breaugh says, or do you adopt Mr. Nixon's point of view that you are out until you withdraw? In other words, there is no discretion with the Speaker in that situation. That is really Mr. Nixon's point and I tend to agree with him. He is not giving the Speaker discretion.

If a person says something that is not allowed, he breaks the rules and he really is out until he purges himself of that broken rule. With all due respect to what Mr. Charlton says, the people out there are a little smarter than that. If you had that rule in the House, by the way, I think a lot of people would be less prone to stand up and say "You are a liar" and be the hero and be thrown out for a day. They would stand up and use the other euphemisms, the other ways of pointing out in Hansard and to the public, without breaking the rules, that the member was not telling the truth.

I am more interested and more anxious to have the rules not broken than to have the penalty clause.

Mr. Breaugh: The difficulty I am having with this is that I accept, for example, that if the Speaker does not hear somebody mouth an obscenity there is nothing the Speaker can do about that. I am happy with this whole thing; okay, you have a censure motion and 15 people say, "Yes, he did," and everybody else says, "I do not think so." I recognize that is a stalemate and that we have a little mechanism now where you can at least point it out.

The difficulty with this position that we are now talking about is that the one who mouthed the obscenity, in effect, gets away scot-free.

Mr. Rotenberg: No, he does not. It is on Hansard that eight members of the House said, "I heard him."

Mr. Breaugh: Yes, but he does not have to withdraw; he does not have to stand up and apologize; he does not have to say, "I used unparliamentary language and just because you did not hear me, Mr. Speaker, that is too bad, I am going to do the decent thing." That person gets away scot-free.

What we are talking about here is that the member does not get away scot-free. He gets thrown out and it can be forever and a day. That is too much. We cannot have that.

Mr. Rotenberg: He broke the rules in the Speaker's hearing.

Mr. Charlton: The other point I want to make is we have been focusing in this discussion on "liar" and the use of that word. There are other circumstances where the Speaker demands that somebody withdraw something that is not clearly unparliamentary; i.e., it is not set out on the list.

We have taken away the right to challenge the Speaker's ruling in recommendation 1 here and we have a situation that is a lot less clear than the use of the word "liar." We have put the member in a position where he has no right to appeal the Speaker's ruling and he is still forced to withdraw in questionable circumstances. All we are saying is that it is not right to have both. Every situation is not as clear-cut as the use of the word "liar." You are potentially backing somebody into a corner where there is no solution.

Mr. Rotenberg: If I could make my choice, I would rather keep the rule of mandatory withdrawal and keep the appeal of the Speaker's ruling rather than going the other way. I have some feeling for the dignity of the House and I would rather go that route and leave clause 2(c) in there and allow the Speaker's ruling to be appealed than go the other route and, in effect, allow the offences to stand.

Mr. Breaugh: Maybe it would be helpful to try to focus on that. I really think that is about the centre ground here. I fall on the other side. Every time we appeal the Speaker's ruling I always feel very self-conscious about that. We do not stand much of a chance of winning in a division that always falls along party lines.

Mr. Cureatz: Plus the integrity of the Speaker generally.

Mr. Breaugh: I think in the long run that drags down the Speaker's position more than anything else.

Mr. Cureatz: So do I.

Mr. Breaugh: If we want to come to a conclusion on this, it ought to focus on that. I will give you the right that the Speaker's ruling cannot be appealed, but I want the latter half of 20(c) withdrawn.

Mr. Chairman: Is there any room for movement if, as a matter of compromise, you leave in that there is no challenge to the Speaker's ruling, and remove what Mr. Breaugh finds offensive about the withdrawal, but extend the two weeks to four weeks, six weeks or some other period? No withdrawal would be demanded. There would be no mandatory withdrawal, but the two-week penalty period is extended substantially.

Mr. Breaugh: The motion could read "for more than two weeks."

Mr. Chairman: It could be "not exceeding four weeks," "not exceeding six weeks," or something like that.

Mr. Rotenberg: Let us back up one step further from that. I raised this point earlier. Should the penalty be imposed by motion in the House? You do not feel the Speaker should impose an open-ended penalty?

Mr. Breaugh: No, I do not think so. If you get into that kind of serious situation, I think the Speaker has an obligation to try the House. He must have the support of the Legislature. It would not be unreasonable to say it could be for the sitting of the Legislature.

Mr. Rotenberg: The balance of the session.

Mr. Breaugh: The balance of the session kind of thing, but to be fair to the Speaker, it is not fair to hang him up with that kind of quick judgement call.

Mr. Rotenberg: I think I can agree with you. It is saying the motion can be for suspension up to the balance of the session. If it was in March, it could be until the end of December.

Mr. Breaugh: Yes, but then it has to be--

Mr. Rotenberg: However, you say it has to be in a motion. If you will buy the session, I will buy the motion.

Mr. Chairman: That is a heavy penalty without actually having to withdraw.

Mr. Breaugh: It sure is. I think I would be a little happier if you said, "sitting."

Mr. Rotenberg: What does "sitting" mean? A sitting means the same day.

Mr. Breaugh: Give me the right words. I would say "sitting" would be--

Mr. Chairman: Do you mean April to June or October to December?

Clerk of the Committee: That depends on the practice of the parliament. We could have a new Premier who decides to have--

Mr. Rotenberg: Session to session.

Clerk of the Committee: We do not have a calendar as they do in certain jurisdictions where there are particular sittings.

Mr. Breaugh: We are talking about an outside limit of a session of the Legislature. It has the potential of being almost a full year these days. I am anticipating it would not be used very often. However, I would rather go that way, because then I would be left with the Legislature as a whole putting forward a motion of disciplinary action against a member that would be voted on.

Mr. Rotenberg: On December 13, the balance of the session could be possibly one day; be that as it may.

Mr. Breaugh: Yes.

Mr. Rotenberg: Okay. I am not happy with the motion of the House, but if it is going to be a major long-term penalty, perhaps Mr. Breaugh is right. Perhaps it should be by a vote of the House, which could be a partisan vote, but hopefully it would not be. There is also the two-week limitation in the context we have.

If we buy that, getting back to clause 2(c), are you willing to leave in the words, "with the Speaker's consent," or do you want to take all that out?

Mr. Breaugh: Clause 2(c) would now read, "When a member has been suspended under clause (b), this suspension shall be for a period named in the motion, not exceeding one session of the Legislature."

Mr. Rotenberg: That should be "not exceeding the balance of the session."

Mr. Breaugh: The balance of the session.

Mr. Charlton: While we are discussing this amendment, does it make sense to try to include something that would allow for at least a 24-hour, cooling-off period before the motion is put?

Mr. Rotenberg: I think that is automatic. I do not think the Speaker would do that. You do not have to put that motion in right away. If I get up and call you a liar, and refuse to withdraw it, the Speaker throws me out.

Clerk of the Committee: You have to.

Mr. Rotenberg: Do you have to do it immediately?

Clerk of the Committee: That is what our current practice is. The Speaker would say, "I find this to be a serious

offence." Then he would look to the government House leader to move a motion.

Mr. Breaugh: Would it be useful to do what Mr. Charlton is suggesting?

11:10 a.m.

Mr. Charlton: I am suggesting that if the Speaker names a member and asks him to leave and the member comes back in the next day and still does not withdraw, that is the point at which the Speaker would look for the motion.

Mr. Rotenberg: I could buy a cooling-off period. That is a good suggestion.

Mr. Breaugh: Can we work up something like that?

Mr. Rotenberg: You are returning to clause 2(c). It would then be, "When a member is suspended under clause (b), this suspension would be for a period named in the motion"--take out the words "not exceeding two weeks"--"provided the member shall not return to serve the House until he has the consent of the Speaker."

Can you buy this sort of thing? It gives the Speaker the discretion of whether the member must withdraw or whether there is some compromise on which he can let the member back in.

Mr. Breaugh: I am assuming that inference is there. I do not want to put it in the standing orders.

Mr. Rotenberg: Do you not want "consent of the Speaker" in the standing orders?

Mr. Breaugh: No.

Mr. Rotenberg: You could leave "consent of the Speaker" in as a compromise, and take out the words "withdraw the offending words." I am not happy with it, but I think we have to make some compromise. In effect, it would not be mandatory to withdraw, but the Speaker would orchestrate the member's return, withdrawal, apology, or some fudging of whatever.

Mr. Breaugh: Mr. Charlton convinced me that is an important thing, too, and it should be withdrawn.

Mr. Rotenberg: Let us look at this practically. In an extreme case, suppose it is May 18, a person is in serious breach and we have a motion saying the member shall be suspended for the balance of the session. He would be out until December. How does the member get back in and how does he purge himself of his contempt, unless you have the words "with the consent of the Speaker." You must have something in there. What is the mechanism to get the member back in?

Mr. Breaugh: What we have done is to make the censure motion more practical. The House says, "This person should not be

among us for the balance of this session." That is the punishment. The person serves the punishment and comes back in at the beginning of the new session.

Mr. Rotenberg: Let me go back to the Ziemba case. Mr. Stokes said--it may not have been legal but he did it--"You are out until something happens." Without putting it--

Mr. Breaugh: Are you looking for some weasel words?

Mr. Rotenberg: No, not necessarily weasel words. Say member X gets up on a great matter of principle and says, "You are a liar; you are this; you are that," and refuses to withdraw because it is a matter of principle in the House. The vote is one or two days later and the ruling is that he is out until next January. A week or two later, the member may have some sober second thoughts and try to negotiate his way back in. How does he do it?

Mr. Breaugh: Do you want something which would allow the member to be readmitted with the consent of the Speaker?

Mr. Rotenberg: Maybe with the consent of the House. He may have a House motion to withdraw the first motion. I think there should be some way for a member who has a long extension to purge himself of contempt.

Mr. Edighoffer: Listening here, I think we have gone around the bend. As I understand it, all we have done is extended the two-week period in the motion. We are still back at exactly the same thing we had in the standing orders all along. Am I right?

Mr. Breaugh: Pretty close.

Mr. Edighoffer: We are changing two weeks to half a session or so.

Mr. Rotenberg: I want a way for a person to purge himself of his contempt and get back into the House. I think it is necessary. In the original thing, he could withdraw and come back in. If we take that out, we have to substitute it with something. You do not want the mandatory withdrawal; you do not want the Speaker to have discretion, but I feel he is right.

Mr. Breaugh: If it is left the way it is, the only possibility I see is by unanimous consent, the House could agree to rescind the previous motion and reconsider and readmit the member.

Clerk of the Committee: Last week, the committee wanted to leave clause (d) in there.

Mr. Rotenberg: That is the problem. Not in the same day, not for the short period or the short session.

Mr. Breaugh: I would be happy to consider something that allowed the Speaker some discretion at reviewing that. We have gone from the position where the House--

Mr. Rotenberg: We have gone from one position to another on that.

Mr. Breaugh: --can appeal the rulings of the Speaker. Now we are going full turn and saying the Speaker can overrule a motion of the House. I would like to think about that. I am rather curious. In 17 years, I have never listened to any motion of that sort. Have any motions to suspend a member ever been put in this House?

Clerk of the Committee: I could not say for sure, but not in recent times.

Mr. Chairman: We have a distinction here--at least I think we have. Up to now we have been discussing a member withdrawing, unanimous consent and so on, before he is kicked out. David's point now is, after you have gone through the procedure and he has been kicked out, he wants a mechanism letting him get back in or withdraw or whatever, but after going through the procedure. We are discussing something a little different than being hoofed out and the mechanics prior to him being kicked out.

Clerk of the Committee: You could probably put some exception in there, "except where a member indicates he wishes to withdraw any offending words," or something like that.

Mr. Chairman: That is where it says we will not give unanimous consent. We can put in an exception, "except where he indicates to the Speaker he wishes to come back in and withdraw."

Mr. Breaugh: I would probably be happy to consider that the unanimous consent rule is out the window in all these cases, but the Speaker may recognize.

Mr. Rotenberg: You are coming full circle. If you go that far, you are almost back to the situation I would much prefer; that is, to keep the House out of it altogether. If the Speaker can let him back in, maybe he can kick the member out for longer than one day too.

Mr. Breaugh: We would be allowing the Speaker to run a temporary absence program here. You are convicted and sentenced to jail, but the Speaker lets you out on a day pass to do your job.

Mr. Rotenberg: It is not that, either. He has to give him--

Interjection: It could also put him on parole.

Clerk of the Committee: That could put the Speaker in a very serious position if the offending words were used against him and he was forced to judge a matter in which he was personally involved.

Mr. Breaugh: There are practical ramifications. I think it is not inconceivable that, after the motion has been put and I have been suspended for the remainder of the session and I go to Oshawa and meditate upon my sins for three weeks, I could go into

John Turner's office and say: "John, I have been bad. I want a chance to be recognized in the Legislature and to say I have been bad. I am sorry for all my sins." If John could do that somehow, I am not opposed to that notion.

Mr. Edighoffer: Do you mean he can change the decision of the House?

Mr. Breaugh: The problem is I do not think he can. A mechanism would have to be set up to allow him to start a process where the House--

Mr. Charlton: Is there a better way of dealing with this? Why do we not deal with it in the motion that is put? In other words, the motion sets a penalty unless--

Mr. Rotenberg: Brian, the motion could say, "You are suspended for the balance of the session or until the remarks are withdrawn." It could be in the House motion.

Mr. Charlton: That automatically makes a mechanism, does it not?

Mr. Breaugh: Yes. I think you want some weasel words.

Mr. Rotenberg: Mike, you do not want the person to have to withdraw when the Speaker says, "You cannot come back until you withdraw." But if the House says, "You cannot come back until you withdraw" in a particular circumstance, would that be acceptable to you?

This is what Brian is saying, that you are out until you withdraw. That would be the House ruling and not the Speaker's ruling.

Mr. Charlton: The bottom line is that the only time the House would suspend a member for a whole session is in the most serious of circumstances. Otherwise, the House is going to set a penalty of a week or two or three, whatever the case happens to be.

Mr. Rotenberg: In other words, Brian, you are saying the House can make the suspension and the conditions of parole in the motion. It is not up to the discretion of the Speaker.

We should put in the new clause (b) or (c) that the member may be suspended for a period up to the end of the session and the motion makes the conditions for his return.

Mr. Breaugh: Yes. Somewhere in the motion, there has to be provision for a death-bed repentance.

Mr. Rotenberg: In other words, it would not be in the standing orders. In each case, the individual motion would give the terms of repentance rather than them being in the standing orders.

Mr. Watson:: Clause (d) is going to have to be changed in terms of "unanimous consent may not be given." The first part

will be all right to "the end of the day's sitting," but the second part should be struck.

Mr. Breaugh: I think it would be better to do it in clause (b). We have a little quotation saying, "Such member be suspended from the service of the House for a period up to the end of a session or until--"

Mr. Rotenberg: "Or on such terms and conditions as the motion may set."

Clerk of the Committee: As Mr. Rotenberg suggested, you could put it in clause (c), "Where a member has been suspended under clause (b), this suspension shall be for a period named in the motion, not exceeding the remainder of the session, and--"

Mr. Rotenberg: "Upon such terms and conditions."

11:20 a.m.

Clerk of the Committee: Yes, "and upon such terms as the motion may specify."

Mr. Breaugh: Okay. Let us work on that for a while.

Mr. Edighoffer: I agree with clause (a). It has to be there; there has to be some penalty. But why would you not make (b) just refer to the more serious offence, or an offence of a serious nature, and put in there that he can return only when he withdraws the offending words? Then make (c) into one regarding the motion that the House can make. I think we are getting too complicated.

In other words, you would have a member who can be suspended for a day and come back--that is, if he does not resume his seat when the Speaker tells him to--for a simple offence. You have one section for a more major offence, where the Speaker will let him back once he withdraws. Then you have the third area in which the House still has the authority to impose whatever penalty it wants.

Mr. Rotenberg: For how long do you have the Speaker keep on until he withdraws? That is really Mike's problem.

Mr. Edighoffer: I would say until he withdraws.

Mr. Rotenberg: I accept that and you accept it, but Mike will not accept it. To me, that would solve the whole problem; you do not need motions. But the New Democratic Party does not want to accept that he is out until he withdraws, and that is our problem.

Mr. Edighoffer: When you get down to the motion, who can make that motion? Does it have to be the government House leader?

Mr. Breaugh: The government House leader has to do it.

Mr. Rotenberg: It does not have to be.

Clerk of the Committee: It does not have to be but, as

they said in England, he is morally bound to move it. There have been some jurisdictions in which, because the minister has been the one who has been named and the offence is a serious one, the House leaders have refused, so the Speakers usually look to the Leader of the Opposition, who is obliged.

Mr. Rotenberg: What you are saying is a much simpler, a much more direct and much easier situation, but we cannot get the gentleman opposite to accept the idea that he is out until he withdraws. Then you do not need anything else; you do not need motions or anything.

Mr. Watson: One of the things that bothers me in here is that we are putting limits on the House, that it cannot do something by unanimous consent.

Mr. Chairman: It seems to me there is a difference between unanimous consent after the fellow has been kicked out and has gone through the machinery on the one hand and the unanimous consent deal-making situation in 10 or 15 minutes that same afternoon on the other hand. There is quite a little distinction between the two.

Mr. Watson: I think we are basically wrong in taking away the powers of the Legislature (inaudible) against itself.

You are right. It is somewhat different from the 10 or 15 minutes because the practicalities of it happen to be that if we want to give unanimous consent, we are going to go back in; if we are not going to give unanimous consent, we will ring the bell all afternoon. If it is that serious, then let the bells ring. I guess I do not care.

Mr. Breaugh: There are lots of ways to resolve this. The practical problem is that usually this deal is announced rather grandly, or is sometimes mumbled, as the members are reassembling in there, so it is rare for you to know. I doubt very much whether all members are aware that the government House leader is asking for unanimous consent.

I have never seen an occasion when there is any debate about that. Mostly he just says it quickly, the Speaker looks around and, unless somebody is really sharp, stands up and says no--or even if you do say no, the Speaker probably does not hear you; you have to jump up and down a little bit.

Maybe we should make that the practice. Never mind what deals are struck there. Some of us will say no and unanimous consent will be withheld.

Mr. Chairman: Can I point out--and I just checked with the clerk that it is so--that the Legislature always reserves to itself the right on unanimous consent to do anything it wishes and to set aside standing orders. We hear it all the time: "Notwithstanding standing order 36(b) or whatever," the House gives unanimous consent to whatever. It can also unanimous consent itself around this clause, which says that no unanimous consent will be given.

Mr. Watson: Why are we putting it in?

Mr. Chairman: The clerk says for guidance.

Clerk of the Committee: That was what the committee wanted last week.

Mr. Chairman: The Legislature always reserves unto itself the right by unanimous consent to do anything it wants, to throw the whole standing orders out.

Mr. Breaugh: Yes. It has done that.

Mr. Chairman: Therefore, we can put in--but let us not dwell on it too long--this unanimous consent thing saying that no unanimous consent shall be given because it can be set aside any time the Legislature wishes.

Mr. Watson: If that is the interpretation and the practicalities of following it through to its ultimate conclusion would be that it could in fact be set aside, I am happy for it, because that means the House leaders cannot go out to another room and make a deal 15 minutes later.

Mr. Breaugh: There is a better way to phrase this. I would be happier if we said you cannot seek unanimous consent until the following day. The next day you could reconsider, but for that day the decision of the Speaker stands and the following day you can say, "Okay, we will let him in."

Mr. Rotenberg: You can still get unanimous consent.

Mr. Breaugh: You can seek unanimous consent, but not that day.

Mr. Rotenberg: Even then you could seek unanimous consent to overrule, but then you could not seek unanimous consent.

Mr. Breaugh: You probably could.

Mr. Watson: You could seek unanimous consent to set aside this rule.

Mr. Rotenberg: I like the rule in there. I like the way Mr. Breaugh worded it. It is okay because, as a guide, it puts a lot more pressure on people not to seek unanimous consent if it is in the rule book. Even though you could do it, it would make it a lot more difficult.

Clerk of the Committee: You can have unanimous consent if you want to distinguish people who have been named and just kicked out for the day. In that case, you cannot seek unanimous consent. However, in the other case you can, after one day. That would be on a motion where the motion has been adopted, but you have said before that you want a cooling off period of a day before the motion is put.

How do you want to tie that in? Am I missing something?

Mr. Breough: I do not think there is a major problem. You have added one day to the process. A motion of this kind should not be verbal; it should be written, so we are asking that it be printed.

Clerk of the Committee: It should be noticed.

Mr. Breough: It should be noticed. I do not know whether you need it, but if we are going to talk about unanimous consent for any of this, we should say, "You cannot introduce that on the same day; introduce it the following day."

Mr. Watson: Let us not box ourselves in.

Mr. Breough: I do not think that poses a major problem for anyone.

Mr. Watson: We have never had a motion that anybody here can remember. This kind of motion is not going to be made on the spot.

Mr. Breough: We want to make sure it is not.

Mr. Watson: It is going to be well thought out and people are going to know it is coming.

Mr. Edighoffer: Perhaps it is better to change that around completely and say, "No member may return to the service of the House prior to the end of the sitting of the time named, unless by motion of the House." Forget unanimous consent. Say a member has been kicked out just because he would not sit down, and something else came up at night that he should be there for--

Mr. Breough: The problem I have with the current practice is that they are coming in and announcing an agreement to which I was not a party. Theoretically, the House leaders are supposed to tell their other members what they have agreed to, but the fact of the ramification is they do not.

We are caught in a quandary. We do not know whether the House leader has agreed to it or not. We assume that he has. We do not want to embarrass him because he may have valid reasons for having done it, but I do not know what they are and they are seeking unanimous consent. There is a tendency to think there must be some reason for it, but you do not know what it is. I would like to remove that problem from my mind.

The obvious way to resolve it, if you are like me and you do not like that practice, is to stand up and say, "No." Then I am going to make my House leader look bad. Perhaps there is a valid reason why that person should be readmitted, but I do not know what it is. It would be better if we precluded that from happening.

Mr. Rotenberg: I am of the opinion that rules are there to be observed and honourable members should observe the rules. We should only have to use this in rare cases.

The clerk supplied me with a list for 1978. It was once or

twice a year. Now it is becoming almost a weekly occurrence that someone has to be called to order. More are thrown out.

Maybe we have to have tough enough rules. Getting back to where we were before, as Mr. Edighoffer says, persons ought to withdraw. If someone knows that, he is not going to stand up and say, "You are a liar." He is not going to break the rules in the first place. That would be the most desirable position by far.

As we add more and more words to these rules, they are getting more and more complicated, and to comment on all these possible situations gets more and more convoluted.

11:30 p.m.

Mr. Breaugh: It would be useful to have the clerk try to redraft this and bring it back next week.

Mr. Chairman: Except that I was asking him whether he was all set and he has a bit of a problem on this unanimous consent matter.

Clerk of the Committee: If I could just go over it with you, to make sure I understand. In clause 20(b) you want to have a provision that the motion would not be put forthwith, that the person would be named. There would have to be some provision because you could not let the person remain if there is going to be a motion.

Mr. Charlton: You would name him and you would boot him out for the day.

Clerk of the Committee: Then the motion would be put the next day to deal with the matter.

In clause (c) the member could be suspended for a period named in the motion not exceeding the remainder of the session or balance of the session with the provision "upon such terms as the motion may specify."

In clause (d) you could not give unanimous consent to permit a member who has been named to return to the service of the House prior to the end of the day's sitting. I am confused about the second part of that clause.

Mr. Rotenberg: Could you stop there? I think that covers the point.

Mr. Breaugh: Yes, I would leave it right there. I think, if we have those words put in front of us next week, we will have an agreement.

Mr. Rotenberg: In regard to the practicalities of what we are doing, let us get back to them. I am thinking of Bob Nixon's point and how he is going to look at this. You are in effect saying if member A calls member B a liar, the Speaker kicks him out for the day. Then if the next day he has not withdrawn and the Speaker thinks it is a bad scene, which it is, then someone

has to get up and make a motion that member X is suspended for a period of time.

The motion could say he is suspended for the balance of the session or until he withdraws the remark. By the way, that motion is not debatable. I think we have that in this situation. I can see a situation dividing very much along party lines. In effect, if the offending member is an opposition member, the government votes it down, and if it is not, the opposition votes against the motion. It becomes a partisan situation, rather than an order situation.

I have some reservations about that whole scenario. Getting back to this situation, when you get these matters of order and matters of the rules, I would still rather see the Speaker do it than have the House do it.

I think in this situation with Martel, for example, if someone got up the next day and he refused to withdraw, the House leader getting up and saying the member for Sudbury East should be suspended until he withdraws the remark or be suspended for a number of weeks, that is going to make the situation a hell of a lot worse than just having the Speaker suspending him until he withdraws. It is really going to blow the place up.

Mr. Charlton: In circumstances like that, will it be totally partisan? I think back to comments you made earlier today about the situation in the last parliament with the member for High Park-Swansea. When the Speaker made a ruling that was questionable under the standing orders about whether he had the authority to make that ruling, the opposition parties could have challenged the Speaker's ruling on that issue, but they did not.

Mr. Rotenberg: Maybe that was a more extreme case. Is there a middle ground between what that member did and calling a person a liar? What you are saying is that if you call a person a liar, you are out for the day unless the House makes a motion. The House is going to be awfully reluctant to make a motion.

Mr. Breaugh: Maybe that is the way it should be.

Mr. Rotenberg: You have a minor penalty and a game misconduct. You do not have a rule for a major penalty.

Mr. Breaugh: Okay, but the problem really is this, David. If we move to a position where you say one of my members must withdraw, I am not prepared to do that unless I have a mechanism whereby a minister of the crown is censured for things he says.

In other words, you want to punch my guy and I am supposed to forgive your guy. It ain't going to happen, ever.

Mr. Rotenberg: I did not ask you to forgive your guy or my guy.

Mr. Breaugh: Yes, you did. I have to let your member off

the hook. Okay, maybe I have to, but not if you are going to hang one of mine on a hook. That will not happen.

Mr. Rotenberg: You see, the mechanism we are trying to set up, we have to anticipate, is not going to work.

Mr. Edighoffer: Yes, but we are just thinking in the context of this one case.

Mr. Breaugh: That is because that is the one referred to.

Mr. Edighoffer: Yes, but Elie said the other day he is going to go on calling people liars. As I recall, that is what he said.

Mr. Breaugh: If people continue to tell him to fuddle-duddle.

Mr. Edighoffer: Maybe other things too.

Mr. Breaugh: That is about the best wording, but I think it would be wise to stand it down and take another look at it next Thursday.

Mr. Rotenberg: I must tell you I am not happy with this. I do not think it is the answer and it is not going to work. I think you need some intermediate step. You have the minor penalty, the one day, and you have the game misconduct by motion of the House. Maybe those are two extremes.

Mr. Charlton: No, the game misconduct you are talking about is not just a game misconduct. It is anything from a second day of suspension or third day of suspension up to a game misconduct.

Mr. Rotenberg: No, let me put it this way; it is an appeal to the board of governors of the league rather than just the referee. I want to give the referee a little more power at some intermediate stage. The motion of the House has to be in extreme cases. Maybe I could accept that if the Speaker had some intermediate stage where he on his own can suspend for up to two weeks or something like that. If you are going to do that, I think the Speaker should have the power of more than a one-day penalty.

Mr. Breaugh: I think there is some latitude there for the Speaker to do the same thing the second day.

Mr. Rotenberg: No, I do not think so. Is there?

Clerk of the Committee: As the Clerk said last week, the Speaker could ask the member to withdraw the words when he came back to the House. If he did not obey the Speaker's direction, he could be named for disregarding his authority.

Mr. Rotenberg: But just for the day. In other words, you are going to have the charade of the person coming in every day, the Speaker asking him to withdraw before the orders of the day or before question period and he says, "No." You are going to have

this little charade of the member coming in every day and going out every day. That is not the right way either.

Mr. Watson: But that will likely soon result in a motion.

Mr. Breaugh: Yes, I could see that happening on two days--he gets named one day and named the second day--then I would think the Speaker would want to deal with it in a more formal way.

Mr. Rotenberg: But the only forum we have for the Speaker doing this is by motion. I wonder if we could consider some intermediate stage where the Speaker could deal with it for a limited period of time without having to come in every day; by the Speaker saying, "You are gone for two weeks unless you withdraw," and after the two weeks, you put the formal motion.

Mr. Breaugh: But at some point this has to be a decision of not just one person.

Mr. Rotenberg: I agree with you, but what I am saying is, if he considers it a serious offence, I would like to see the Speaker having the discretion of naming the member for more than one day before he has to go to the motion, because the motion is a very difficult situation. We have never had one, as we recall.

Could we consider giving the Speaker some--

Mr. Breaugh: You are just going a bit farther than I would. I am content with the notion that the Speaker rules the roost for a day. After a day, I think the Speaker could try it on one more time but then motions have to start to get put on the floor. Votes have to be taken.

I am content with the notion you do not like the practice that the Speaker throws somebody out in the afternoon and by five o'clock everybody agrees that was a wrong call and we let him back in.

Mr. Rotenberg: I agree with that part of it.

Mr. Breaugh: I do not want to extrapolate that into some kind of a feud that could erupt.

Mr. Rotenberg: I think we have agreed to disagree and we have gone as far as we can go.

Mr. Chairman: Okay, we have at least something left with the clerk to come up with another confidential draft for next week.

Mr. Breaugh: It is another Rotenberg rule being developed here.

Mr. Chairman: There is nothing else, is there? Having nothing else, we will adjourn and meet back here at 10 o'clock next Thursday morning.

The committee adjourned at 11:37 a.m.

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STANDING COMMITTEE ON PROCEDURAL AFFAIRS

PARLIAMENTARY LANGUAGE
VOTING PROCEDURES

THURSDAY, DECEMBER 6, 1984



STANDING COMMITTEE ON PROCEDURAL AFFAIRS

CHAIRMAN: Treleaven, R. L. (Oxford PC)

VICE-CHAIRMAN: Watson, A. N. (Chatham-Kent PC)

Breaugh, M. J. (Oshawa NDP)

Charlton, B. A. (Hamilton Mountain NDP)

Cureatz, S. L., (Durham East PC)

Edighoffer, H. A. (Perth L)

Epp, H. A. (Waterloo North L)

Kells, M. C. (Humber PC)

Mancini, R. (Essex South L)

McNeil, R. K. (Elgin PC)

Rotenberg, D. (Wilson Heights PC)

Villeneuve, N. (Stormont, Dundas and Glengarry PC)

Clerk: Forsyth, S.

Assistant Clerk: Decker, T.

Staff:

Eichmanis, J., Research Officer, Legislative Research Service

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON PROCEDURAL AFFAIRS

Thursday, December 6, 1984

The committee met at 10:17 a.m. in room 228.

PARLIAMENTARY LANGUAGE

Mr. Chairman: Having examined this second draft report, which does not say "confidential" on it, Mr. Edighoffer, you had some comments to make with regard to recommendation 3, which refers to standing orders 20(a), (b) and (c).

Mr. Edighoffer: I did indeed. I do not think this spells out very clearly that the House leader or government leader or any member has, on a mandatory basis, to place a motion on the second day. I think it can come at any time, according to this motion.

It also disturbs me about who can make the motion. It is not clear to me here. We have always presumed it has to be the government House leader. If we want it so that anyone can make the motion, because there are certainly times when the government House leader is not there and not many ministers are ther, -I think it should be wide open that any member can.

Mr. G. I. Miller: I did not see too many government members here this morning and it is now 10:20.

Mr. Edighoffer: Oh, really, but Andy's here. He is always here.

Mr. Watson: We make up in quality what we lose in quantity.

Mr. Edighoffer: I really think that this is a good try, but I am in favour of carrying through to the next section what is in the first section, that is, if a member is sent out of the House for a day, he does not have to go if he withdraws. I think we could carry that right through to the next section. If it is a serious offence and he withdraws, whether it is the first day or the third day, as long as he withdraws he can come back in. If it is extremely serious and you want a motion, that is fine too.

Mr. Chairman: May I suggest that clause (c) is dealing with where he has already been kicked out. What you are talking about, Mr. Edighoffer, is when he withdraws before he is named. But this is the situation where he has already gone, and clauses (b) and (c) are being taking together.

It is where it is of a serious nature. He is gone for that day and he cannot come back in that day, no matter what. Then we are dealing in clause (c) with the mechanisms of how he gets back short of it running the whole session.

Mr. Edighoffer: If I understand it correctly, it says the member, with the approval of the Speaker, can come back in immediately on the second day if he says he is going to withdraw. Otherwise, he cannot come in unless there is a motion with conditions.

Clerk of the Committee: No. What would happen is, if he does not come in on the following sitting day--

Mr. Edighoffer: There would have to be a motion.

Clerk of the Committee: --there would have to be a motion to provide that he would not be allowed back in the House for X number of days, weeks or months and any other terms that they wanted to include.

Mr. Edighoffer: So there would be a motion that he could not come in for two weeks and at that time he would have to withdraw. That probably would be in the motion, I presume. What is the difference, whether you just put in here that he can come back in as long as he withdraws?

Mr. Chairman: You are presupposing what conditions would be in that motion. The motion might not have all of that. It might just say he is out for two weeks and that is that, or he can serve on committee in the meantime or whatever. You are saying he has to come back and withdraw. That is not necessarily in the motion. But your point is well taken. It says that it presupposes a motion will be made.

Mr. Edighoffer: I do not know. I just think it is getting a little complicated here. The main thrust and purpose of our discussion is whether or not they have to withdraw. That is how it all came about.

Mr. Watson: If we are not going to do anything with that, we may as well not do anything.

Mr. Edighoffer: We might-as well not do anything.

Mr. Breaugh: So you are suggesting that we draft the clause (c) part.

Mr. Watson: I am not suggesting; I am just agreeing that if it was not for that point--

Mr. Breaugh: The part I agree with is that clause (c) seems to me to be rather complicated.

Clerk of the Committee: Last week that is what you wanted. You wanted to have another--

Mr. Breaugh: This is another Rotenberg rule.

Clerk of the Committee: You wanted to give the member a cooling-off period of 24 hours or at least until the next sitting day.

Mr. Breaugh: What would happen if we did not include this clause (c)? Would the member not have the opportunity to inform the Speaker he wanted to withdraw?

Clerk of the Committee: If you want to give the Speaker the power to keep a member out for all time until he withdraws, then that is what you are doing. The Speaker has always had the power to keep a member out for one day. "You have violated the rules of the House or disregarded my authority. I am going to order you out of the House and its committees for the balance of the day."

For anything more than a day, the House has always reserved the right to decide for how long the member is going to be suspended. Basically, what you are doing if you take out clause (c) is giving the Speaker the right to suspend them from the service of the House. The question is, for how long?

Mr. Breaugh: I guess maybe the approach I would prefer would be to put a simple clarification in the standing orders that if the suspension is to be for more than one day, it must be by motion in the House.

Clerk of the Committee: That is what we already have. The current standing orders provide that.

Mr. Breaugh: Yes. The difficulty I have with clause (c) is that I find it a little cumbersome, difficult to understand, and unclear. That causes me some problems.

Mr. Chairman: Do you want to give any wording in the standing orders about the Speaker not recognizing the member?

Mr. Breaugh: That really does not disturb me too much. I only remember one occasion here when it was a problem of any kind. It seems to me in other jurisdictions it has not been a bad little tool the Speaker used to make a point about something.

Mr. Watson: I keep hearing what Speaker Stokes did. Can somebody explain to me why he had no authority to do it?

Mr. Breaugh: I do not believe that is quite true. It is not written in the standing orders--

Mr. Watson: What was so wrong with it? That is what I am asking.

Mr. Breaugh: I think what went wrong, if anything did go wrong, was the length of time the argument held. Jack Stokes simply used an unorthodox means of sanctioning a member by saying in a statement that he was not prepared to recognize him until he did--I forget what the exact sin was at the moment--

Mr. Edighoffer: He charged Mr. Rotenberg with buying the riding.

Mr. Breaugh: Yes, some serious thing like that. So Jack Stokes simply said he was not prepared to recognize him. I believe he asked that anybody chairing the committee not recognize him either. It was intended to be a situation to kind of cool things out for a short period of time and then everybody would apologize and get on with the business. It did not work out that way.

It has been something that has been tried at Westminster and in Ottawa but only for short periods of time. It is not in anybody's standing orders that I am aware of. It is just a little technique that Speakers use. If you are misbehaving in some way, they do not recognize you. The Speaker at Westminster did not like members appearing without ties. He kind of let it be known if you did not have a tie on, he was not about to recognize you.

Mr. Chairman: Let us not lose sight of the fact that we are here, as the clerk points out to me, to decide basically one thing, namely, the manner of withdrawing. We have gone far afield. Can we just focus ourselves back on that? We are here to see what we are going to do about the withdrawal. We are here to decide whether a member gets back in before he withdraws or not.

Mr. Watson: I do not want to get far afield, but I still refer back to that one. If in that case, although it went on longer, the member had indicated to the Speaker after a month that he was prepared to withdraw, the Speaker would have allowed him in, recognized him and the world would have gone on.

Clerk of the Committee: I think the concern about that procedure that has been expressed in Ontario and also in meetings with other parliamentarians or clerks from across Canada is that, as Mr. Breaugh said, at Westminster, in Ottawa and in other jurisdictions, Speakers have just not recognized a person. They do not say in the chamber they are not going to recognize this person until he does such and such; they just do not recognize the person.

I saw it at Westminster earlier in the year where one member constantly harassed the Speaker. The Speaker would not recognize him for two days, would recognize him on the third day and then would not recognize him for another two days. That went on and on.

10:30 a.m.

In this instance, in Mr. Ziemba's case, the Speaker made a statement in the House, as Mr. Breaugh says. He said he would not recognize him and called on the chairmen of the committees not to recognize him until he returned to the House and apologized or withdrew his remarks. The only thing the member could do was to sit in the House and vote, but he was never recognized for the purpose of participating in any debate.

As I said before, in all jurisdictions I know of, the Houses retain the right to deal with a member who has committed a serious offence. If there has been a serious offence committed, it is usually on a motion where the House has a chance to express its

opinion. The Speaker has not been given any more formal power than the power to name a person for a day or not to see him. Generally, not seeing a person is only for a few days at most.

Mr. Breaugh: What is anyone supposed to do with standing order 20(c) then? Maybe we should deal with the withdrawal directly.

I still have reservations about that. Most of the time I would not have any problem with saying you cannot participate if you use something that is unparliamentary and you have to withdraw that remark. That probably covers 99 per cent of the occasions when I have ever seen it happen. However, there is the rare occasion when, in my view, it is not really appropriate for somebody to withdraw a remark.

If you still insist that they have to withdraw, then you have to provide some other mechanism, and I do not know what it is, frankly, to resolve a dispute such as the one that has been referred to us.

Mr. Watson: I have a certain sympathy for what Mr. Breaugh is saying because in 99 per cent of the cases we are going to do it. In the standing orders, can we use language to the effect that the member who has been named for using unparliamentary language is expected to withdraw? I think you are a little hung up on saying, "The member must withdraw," because of the possibility of which we just spoke.

We should have something in the standing orders, which is really guidance, that says the member is expected to withdraw the unparliamentary language. Then if we want to put in a paragraph on getting involved if he does not, we could deal with it. If he fails to, then the matter should be dealt with by a motion of the House or something of that nature.

Rather than set all the rules, we simply say: "When a member has been named for the use of unparliamentary language, he is expected, upon returning to the House, to withdraw the remark. If he fails to do so, the Speaker will entertain a motion from the House as to direction," or something of that nature.

Mr. Edighoffer: Last week, we discussed the possibility. The member for Sudbury East (Mr. Martel) suggested that on a number of occasions a lot of these things should go to committee. I do not agree with that at all. I do not think we should sit here and make some of the decisions the Speaker should make.

It would really simplify things if we keep the first section, which is tradition and custom in parliaments all over, that if you say something you should not, you can stay in and continue as a member of the House if you withdraw it.

On the next section, if it is a major offence, I see nothing wrong with saying that the Speaker shall name him and that he

shall not return until he withdraws what he said. However, if we want to get into this motion stuff and keep it, it is fine with me that if the Speaker says a member is named and shall not return until he withdraws, the next section could still say that on motion at any time, the House may decide what can be done.

Mr. Chairman: Then the House is overruling the Speaker.

Mr. Edighoffer: But that is okay; it has been that way, in a way. By then, everybody has had time to cool down and to think about it. The person who has been named will not be in there to speak, but if he can convince somebody to put a motion that he can come in under certain conditions and after a certain length of time, fine.

Mr. Chairman: You are suggesting that if it is a serious matter and the Speaker puts him out--

Mr. Edighoffer: He is out until he withdraws, according to the Speaker's ruling.

Mr. Chairman: --or until a motion is brought by somebody in the House--

Mr. Edighoffer: By some member of the House, yes.

Mr. Chairman: --that he come back in and it has to carry in the House?

Mr. Edighoffer: That is right.

Mr. Breaugh: This is where I am having problems. You are taking a rare occurrence and writing a set of rules that I sense are most unfair. For example, if we leave it as it is, you are saying a motion would be put; there is no amendment, no adjournment and no debate. How does one resolve the issue?

Mr. Chairman: No. In that case, I assume Mr. Edighoffer was saying, if there is a motion put by somebody in the House, you will then have a debate.

Mr. Breaugh: That is a little better, but my basic problem is that I must have a lot of faith that there is not going to be division along party lines. My concern is that it is subject to a tremendous amount of abuse. If you have a particularly obnoxious member, and we certainly have some--

Mr. Chairman: When you say "we," you are talking about the New Democratic Party.

Mr. Breaugh: I am?

Mr. Chairman: I said you were.

Mr. Breaugh: Do we really want to have the club meet and the club say, "We do not like this person; so this person cannot sit"? That is my concern. Because we will be dealing with rare occasions, we will be dealing with an obnoxious member, maybe a

member no one likes. The kangaroo court is then going to sit and decide this person's fate. After the electorate has put him in office, this little group down here, the club, will sit and say, "We are blackballing you; sorry."

Mr. Chairman: But, Mr. Edighoffer, is it also part of this that at any time it is open to the member to withdraw?

Mr. Edighoffer: Oh, sure. That is in the second section.

Mr. Chairman: In other words, it is not a kangaroo court that is keeping him out; he can come in and withdraw to get back in. My question is, should he be back in (a) if he will not withdraw and (b) if the majority of the House thinks his offence is serious enough that he should not be back in unless he withdraws?

Mr. Edighoffer: If he has the right to withdraw in section (a), why should he not have the right to withdraw in section (b)?

Mr. Breaugh: To my mind, that is like the right to plead guilty. It is not exactly a right I want to enjoy a whole lot.

Mr. Chairman: Now we are back to Mr. Rotenberg's comments that he can withdraw, but he can certainly make it plain during his withdrawal.

Mr. Breaugh: Yes. You are saying the member has the right to apologize and say, "I am wrong"--

Mr. Edighoffer: No. He says, "I withdraw"--

Mr. Chairman: Let us take the worst situation. He is out and this motion is put, as Mr. Edighoffer mentioned, by one of his fellow party people. The motion is debated and it is still felt, on a majority vote, that he should stay out. If he feels he should be in there for his constituents' sake, he can come back in and withdraw, but as Mr. Rotenberg said, he can do it in such language that he is withdrawing only for the sake of his constituents. He still does not believe he was wrong; he still believes he was right. He can certainly make it plain why he is coming back in. It is not an admission or an apology.

10:40 a.m.

Mr. Breaugh: To pick the most recent case of an obnoxious member, one of our federal members did something in a parliamentary committee that is taken by most of us to be a no-no. The way the system works is that where his peers think he has said or done something untoward, peer pressure makes the member apologize for doing whatever he did.

If the instance were slightly different, and the member felt he should not withdraw, apologize, or use other words, do you not think it ought to be left to the peer pressure of other members rather than writing it into the standing orders? The point I am trying to make is that peer pressure and consensus work. It should be left at that point.

Mr. Watson: How are you going to enforce it?

Mr. Breaugh: Well, that is my point. If I say something that is really untoward, I am faced with people in my own caucus who will tell me: "You really should not have said that. You should withdraw those remarks. You should rephrase those remarks. You should apologize," or whatever. It seems to me that this safeguard is there.

In the case of Svend Robinson, he named two people just the other day in Parliament. There was no rule that made him apologize for naming the two people, but he did do it, and he did it--I would guess, not knowing all the circumstances--because people in his own party and others in Parliament talked to him and convinced him that was a wrong thing to do.

That is a good example. He did not say, "I was wrong," or anything like that; he did apologize for naming the two people. It seems to me that is where we have to leave it.

Mr. Watson: I would like to resolve this by not putting too many things on paper. That is why I am suggesting we leave it simply to resolving it by a motion.

I do not want it directed to committee, but I could visualize a circumstance arising where, in the opinion of the House leaders or those who would be discussing the matter, a committee might be a place where the thing would be aired. Let us not put it out, but that would be in the motion.

Let us leave the motion open. The motion may be very simple: "We shall not let that person back in until he or she withdraws." That may be the motion. The motion may be that the matter be referred to the standing committee on procedural affairs. The motion may be that the offensive word is really not offensive and that we are going to change the rules so it does not apply.

Mr. Breaugh: What are the current provisions again?

Clerk of the Committee: On the current ones, basically, (a) is the same, there are just a few minor changes; (b) says:

"When a member is named by the Speaker, if the offence is a minor one, the Speaker may order the member to withdraw for the balance of the day's sittings; but if the matter appears to the Speaker to be of a more serious nature, he shall put the question on motion being made, no amendment, adjournment or debate being allowed, 'that such member be suspended from the service of the House,' and such suspension being for any time stated in the motion not exceeding two weeks."

Mr. Rotenberg: Mr. Chairman, I am sorry. I came in late; I was caught up in another committee.

Mr. Breaugh raises a basic philosophical point about whether peer pressure would force a person to conform with the rules. In certain cases, that would happen. I hate to use the case that precipitated all this, but in that case we have seen that the peer

pressure would work the other way; it would make him think he does not have to withdraw the remark because he felt it was correct.

The problem we have is that we cannot seem to separate the use of the actual word that is offensive to the rules and the thought behind the use of the word, which is that someone on the other side of the House was not telling the truth. That is where we are bogging down.

I do not agree that you can wait for peer pressure to allow someone to change his mind about breaking the rules of using improper language. If improper language is used, and that is a rule, it must be withdrawn.

There is another aspect of the problem which has to be entirely separate from this discussion. If a member feels aggrieved because a member opposite said something to him or about him which was not in accordance with the facts, how does he redress that grievance? There are methods of doing that totally separate from, in effect, calling a member opposite a liar. Unless we can separate out those two parts of the problem, we will never get anywhere.

The first part of the problem is using the word that is directly in contravention of the rules. That cannot be allowed and peer pressure is not going to help. You have to withdraw that remark. How you get redress otherwise? There are many many methods of doing so. I do not agree with Mr. Breaugh, with respect.

Mr. Breaugh: Name one.

Mr. Rotenberg: Name one? A number of members standing up in the House and saying, "Yes, I heard the minister say it." That is a form of redress. In other words, you are getting your point across when other members of the Legislature say they heard the member make the remark although the member denies it. That is one way of redress.

If further redress is required in another instance, it could be referred to this committee on a matter of privilege. If someone felt his honour had been seriously impugned or whatever, he could refer it. I would hate to see this committee sit in trial over two honourable members saying, "I did say it" and, "I did not say it," but if someone felt seriously enough it could be referred to this committee, in effect, to be judged by their peers, which has nothing to do with using the particular word.

We cannot seem to get these two problems separated. If you can separate them out, then we can reach agreement on this. That is the problem in the example before us. We are not discussing whether the minister said it or whether your House leader was correct in saying he said it. That is not the issue. The issue is the word "liar" used in the House. That is the only issue before us. That, in my opinion, cannot be condoned and must be withdrawn.

The matter of whether another member did not tell the truth can be pursued without using the word "liar." We have to separate out those two problems. There are many methods. We have discussed

how you can stand up in the House and call a member opposite a liar without calling him a liar.

Mr. Breaugh: Mr. Rotenberg is right in that there are a number of steps we can take which address the problem, but you cannot get at the nub of the problem.

Mr. Rotenberg: Calling a person a liar and leaving that on the record does not get at the nub of the problem either. You get at the nub of the problem just as simply by standing up and saying, "In my opinion, the statement of the honourable member opposite was not in accordance with the facts, and A, B, C, D, E and F have agreed." You are saying the same thing but you are not using the offensive words.

Mr. Breaugh: No.

Mr. Rotenberg: That is the dilemma. From the point of view of the decorum of the House and of the chamber itself, I feel that when referring to any member, we have to have this kind of a rule.

Mr. Breaugh: The argument revolves around whether you think decorum is well served by letting someone tell a lie and no one taking note of that fact.

Mr. Kells: From the decorum point of view, it probably is.

Mr. Rotenberg: With respect, I am not saying that. If you feel another person in the chamber has, as you say, told a lie or, as I like to say, has made a statement that is not in accordance with the facts, you can draw it to the attention of the honourable members, the press and the public in many ways without using offensive language.

Maybe it just takes a little bit of verbal legerdemain or a little bit of circumlocution, but you can certainly get your point across just as forcibly without using unparliamentary language. I really believe that. In this case, by using gentler language, the member for Sudbury East (Mr. Martel) could have a greater sting in some ways than by using blunt language.

I am not objecting to the member for Sudbury East having his point of privilege. I will protect his point of privilege. I will protect his right to stand up and say, "In my opinion, what was said in this House was not in accordance with the facts" or, "It was not in accordance with the statements." I will protect his position to do that. I will make sure the rules allow him to do that. Any member who feels aggrieved can do that.

10:50 a.m.

I would make sure that if he wants to hear the grievance, there is a process; but I separate that out from any member being able to use offensive language in the House. If you can separate that out and if the member for Sudbury East can separate it out, you would agree that this clause should remain and that when any

person says, "You are a liar," "You are dishonest" or, "You are corrupt," that cannot stand on the record and must be withdrawn. That is totally different from pursuing your cause.

Mr. Edighoffer: What bothers me is that the Speaker can only accept the member's desire to come back and withdraw on the next day. I am sure I read that right; that is the only option the Speaker has. Maybe we could change it to "enter the House on a following sitting day" and leave the motion in.

Mr. Breaugh: You are suggesting it reads, "on another sitting day."

Mr. Edighoffer: Yes. Maybe that would be the simplest way to resolve it.

Mr. Watson: I have no problem with that. If a fellow wants to reflect on it for two days instead of one day, I have no problem with that.

Mr. Edighoffer: Let us say it happens Thursday night. He has to make up his mind by 10 a.m. on Friday about whether he wants to withdraw.

Mr. Rotenberg: In addition to that, go back to the Ziemba case. If you go through clause (c) and you have a motion to suspend the man until December because he refused to withdraw, and if the member has a change of heart three weeks later, he should be able to approach the Speaker and say, "I would like to come into the House and withdraw." He should be able to withdraw in the House and have his suspension lifted. I would even go that far.

Mr. Watson: That would be part of the motion.

Mr. Edighoffer: That is part of the motion, yes. I have been just looking at that, Mr. Watson, and I am thinking that may be what I was trying to say at the beginning.

Mr. Watson: I would be quite happy to take it out altogether or to add "another" or "on a following sitting day" or something that would indicate it does not have to be the next day. That gives me no trouble at all. I do not care if the fellow wants a week.

Mr. Rotenberg: The problem is your rules say that if he does not withdraw the next day, the motion comes in to suspend him.

Mr. Edighoffer: No, we are not saying that. We are saying he is out and he has to stay out unless he corrects his situation on the first day by withdrawing to the Speaker. Then a motion can come in. It still does not say when.

Mr. Rotenberg: The rest of clause (c) says: "However, should the member fail to take advantage of this option, then a motion shall be put to suspend him." Are you saying that motion does not have to be put the next day but can be the option of the Speaker?

Mr. Edighoffer: No.

Mr. Watson: Mr. Edighoffer is saying take out "the following day." Do not make it the following day.

Mr. Edighoffer: Yes.

Mr. Rotenberg: In other words, he is out on a minor penalty for two, three or four days and you do not have to put in the major penalty the next day but rather several days later. That is what you are saying.

Mr. Edighoffer: No. I am saying this really leaves it open. He can come back if he withdraws. If he does not withdraw and someone in the House wants to place a motion and we want to discuss it, we still can under this.

The clerk reads in there, "However, should the member fail to take advantage of this option on the following day," but it is not in there.

Clerk of the Committee: That is what we are talking about in the first part of that clause, "the following day." If he does not take advantage of it on that day, because that is the only opportunity he has under that proposal, then the motion would have to be put.

Mr. Rotenberg: Mr. Edighoffer is suggesting an alternative to making it mandatory. The member now has one day to withdraw, and if he has not withdrawn by the day after the offence, the major penalty--that is, the motion of suspension--comes into force. In effect, what Mr. Edighoffer is saying is there might be some option to let that suspended animation run for two or three days rather until the following day.

Mr. Rotenberg: You are saying the man is out on the Speaker's order for a period of time till the motion is put.

Mr. Edighoffer: I do not think that would do it.

Mr. Watson: Why do we not change "the" to "a"?

Mr. Edighoffer: What is wrong with that, Smirle?

Clerk of the Committee: What if a motion is never put and the member does not withdraw?

Mr. Chairman: If he cannot convince the fellows in his own caucus to put a motion to have it brought up and if he will not withdraw, he stays out.

Mr. Edighoffer: That is right.

Clerk of the Committee: How is the motion going to be heard? It will have to come at the beginning of a sitting day. When are you going to have debate? If it is an ordinary resolution, such as private member's notice of motion, it does not usually get called until private members' public business on Thursday.

Mr. Rotenberg: How would this motion normally be done on the following day? Would it be done by the government House leader?

Clerk of the Committee: The Speaker would advise the House. If it were foreseen, the Speaker would advise the House immediately. If the member did not come to him by two o'clock, they would proceed with business.

Mr. Rotenberg: Who would make the motion?

Clerk of the Committee: The government House leader.

Mr. Rotenberg: I think what Mr. Edighoffer is saying is that instead of that happening the next day, instead of being out one day--I think you have to put a time limit on it of two or three days; you cannot leave it in suspended animation--when the Speaker orders him out he is out until a motion is put. If it is never put, he is out forever, which is even stronger than the motion.

Mr. Edighoffer: No, I do not see it that way. As I said earlier, the person has the right to withdraw on the first day and be readmitted after he says it. He can stay in. That is up to the member.

Mr. Rotenberg: The way the rules are, if the member does not withdraw within--we say one day--a certain period of time, what we are saying is that the Speaker can assess only a minor penalty, which is to suspend him for the day's sitting.

Mr. Edighoffer: Yes.

Mr. Rotenberg: The next day, some action must be taken to continue that penalty, because the Speaker's order for his removal was for that day only. At the start of the next day's sitting, something has to happen. Either the Speaker has to say, "The member for Oshkosh is out for another day," or there is a motion.

Mr. Watson: However, it does not have to be dealt with the next day.

Mr. Edighoffer: The way this reads, if a member is named at nine o'clock on Thursday night, he is kicked out for the balance of the day. If we have the rule that if he withdraws he can come back the next day, fine; if he does not withdraw, the government House leader has to make his decision on what kind of motion and for what length of time he wants to suspend him by Friday morning at 10 o'clock, as far as I can see.

Mr. Rotenberg: I totally agree with what you are saying, but the problem is that at 10 o'clock on Friday morning the member is no longer suspended. He was suspended by the Speaker for the balance of the day.

Mr. Edighoffer: The way it is now, yes.

Mr. Rotenberg: According to your suggestion, at 10

o'clock Friday morning the member can come wandering back in and, unless there is a motion, he is entitled to take his seat.

Mr. Edighoffer: No.

Mr. Rotenberg: Yes.

Mr. Edighoffer: No, because I am suggesting that the member may, with the approval of the Speaker, re-enter the House on a following sitting day in order to withdraw.

Mr. Rotenberg: Then you have to change clause (a), which says the member is to withdraw immediately for the balance of the day's sitting. He has been given only a minor penalty. He has been expelled only until the end of Thursday night. That is all.

Mr. Edighoffer: That is up to the Speaker. If he decides at the time it is minor, he says he is naming him for the balance of the day's sitting. If he thinks it is major, he says, "I am suspending him from the service of the House."

Mr. Rotenberg: He cannot do that.

Mr. Edighoffer: He can under this.

Mr. Watson: If you get kicked out on Thursday night and Friday happens to be a Jewish holiday and you are not here, what are you going to do? You can wait until Monday. Mr. Edighoffer is saying you do not have to make it the next day.

Mr. Rotenberg: I agree with that. What I am saying is--

Mr. Watson: Then what are you arguing about?

Mr. Rotenberg: Clause (b) says, "The Speaker shall forthwith name the member and suspend him from the service of the House." Does that mean for the balance of the sitting, or for how long a period?

Clerk of the Committee: Until the motion is moved, as indicated under clause (c).

Mr. Rotenberg: All right.

Clerk of the Committee: He would not be able to come back into the House the next day except for the purpose of withdrawing, or if the motion did not carry. I agree with you on that.

Mr. Rotenberg: If we took out the words "following sitting day" and put "a sitting day," could the Speaker's penalty under clause (b) run for three, four or five days until the motion is put?

Mr. Edighoffer: Yes, as long as you put it on a following sitting.

Mr. Rotenberg: That is maybe what I misunderstood. In

that circumstance, if you accept that, the other side of the coin is that the member could be out for one, two or three months if no motion was made and he did not withdraw without a motion. Without getting into clause (c), clause (b) could keep him out forever.

Mr. Edighoffer: That is right.

Mr. Rotenberg: In that case, maybe we do not even need clause (c); we do not need any motions. If clause (b) can keep him out forever, or until he withdraws, we can simply put in clause (c) that the member may inform the Speaker on a following day that he wishes to withdraw; he may resume his seat and we do not even have to bother with a motion.

11 a.m.

Mr. Chairman: We are going in circles. We wanted to take it farther. You are back to the point that he either withdraws or does not get back in. Clause (c) was inserted to try to mitigate that, to get him back in without a withdrawal. We are trying to find a mechanism of getting him back in without a withdrawal.

The first part of clause (c) says he can come in and withdraw with approval, and so on, and get back in. It goes on to say that if he fails to withdraw, if that is the situation, then we have a motion for letting him back, either under certain conditions or without conditions, just plain letting him back in. The motion can be made by anybody.

The only thing I see lacking is that it does not say how the motion is going to be dealt with when it is put. In fairness, you do not want to leave it to the government House leader to say, "We will put it on the list for three or four weeks from now." We have to state how soon that motion, after being put, is going to be debated and the issue decided.

Mr. Rotenberg: It is without debate.

Mr. Breaugh: I see a problem in this now. When the Speaker names a member, the Speaker is now going to have to indicate whether it is a minor or a major offence.

He is not just going to say, "Will the honourable member for Oshawa sit down or get out?" He is going to have to make it clear that under standing order 20(a) he is naming the member for Oshawa, or that under standing order 20(b) he is naming the member for Oshawa, which anticipates that a motion will be put.

Mr. Chairman: That is the same as it is now. It says that either the Speaker names the member and he is gone for the day, or the Speaker figures it is serious and the rest follows from there. This is what we have right now. If it is not minor, the Speaker has to say it is serious. That has not changed.

Mr. Breaugh: I think there might be a little bit of middle ground here. If we allowed the member to be named and gave the Speaker the opportunity to let it ride the following day, the normal process as we know it would apply.

However, if the Speaker got up the next day and said, "I named a member yesterday and I want to indicate to the House that I consider it to be of a serious nature," it puts out the red alert. The Speaker is anticipating that the member is still gone and will remain gone until the House deals with the matter. He anticipates a motion within the next few days to deal with it. Perhaps that would be all right.

Mr. Rotenberg: Are you saying, in effect, that instead of doing it on day one, at the time the Speaker names the member and decides whether it is major or minor, he do it at the beginning of the next sitting?

Mr. Breaugh: Yes, there might be some middle ground there.

Mr. Rotenberg: I do not see any advantage to doing that, except that there is a bit of a cooling-off period for the Speaker and the member.

Mr. Breaugh: Yes.

Mr. Rotenberg: If the member comes in the next morning and says, "I withdraw that," it is over, even though it was a major penalty.

Surely you do not think the Speaker requires until the next day to decide. If he names a member and indicates it is a serious offence, I do not see any advantage in having to do it again the next morning. It does not bother me, but I do not see any advantage to it.

Mr. Breaugh: Any way you cut it, I still have problems with it.

Mr. Watson: I am a little confused. What is the difference between the first one and the second one? One is serious and one is minor, but, in effect, what is the difference?

Mr. Chairman: With a minor one, the member is simply gone for the day. With a serious one, you bring in this other mechanism.

Mr. Watson: But the bottom line for both of those is that you are out for the day.

Mr. Chairman: With the serious one, you carry on. Do you mean under the present orders, or under what we are working on?

Mr. Watson: If the Speaker suspends the member from the service of the House under the serious one, does he have to name the member at that time? It does not say so here.

Clerk of the Committee: No, that is for the House to decide and, in effect, for the member to decide. Under 20(a), the Speaker would say, "I name the member for the balance of the day's sitting."

Mr. Watson: Is that for our ordinary "liar" remark?

Clerk of the Committee: No.

Mr. Watson: Is it for refusing to sit down when you are told to, or something like that?

Clerk of the Committee: It is for disregarding the Speaker's authority, refusing to sit down. However, if one member charges another member with corruption, deliberate dishonesty or uttering a deliberate falsehood--those are some of the things written in there--the Speaker would say to the House, "I feel this is a serious offence and I am suspending the member from the service of the House." The next day, the member would have the option of coming in at the beginning of the sitting to withdraw the remarks.

If the member failed to do that, the Speaker would look to another member to put a motion to suspend the member for a definite period subject to such conditions as the motion would state.

Mr. Rotenberg: Mr. Edighoffer is saying, instead of having it the next day, the motion could come in two or three days later. It does not have to be the next day.

Mr. Watson: I am not asking what we are going to do. I am asking what we are doing now.

Clerk of the Committee: Do you want the present procedure in our current standing orders?

Mr. Watson: Are those two not similar to what we have at present with clauses (a) and (b)?

Clerk of the Committee: At the present time, the Speaker can say, "I name you for the balance of the day's sitting," and the member leaves.

Mr. Edighoffer: As I see it now, the Speaker has the power to name any member for a minor or serious offence. Then he has to look to the government House leader and ask, "Is it a serious offence and will you make a motion?"

Clerk of the Committee: The Speaker decides whether it is a serious offence.

Mr. Chairman: If no motion is put, it just hangs there and that is all?

Mr. Rotenberg: If no motion is put, the member comes back the next day. He has the right to come in the next day. The change we are making in the standing orders is that when the Speaker says it is a serious offence, the member does not have the right to come in the next day unless he withdraws.

Mr. Chairman: What is wrong with Mr. Edighoffer's suggestion that the fellow has two choices? All we are dealing

with is whether or not it is a serious matter. If it is a serious matter, under clause (b) the member is gone indefinitely from the service of the House. Then he has two choices: to withdraw or to have a motion put by some other member of the House to have him return.

What is wrong with that? Do you not like leaving that choice open? You cannot have it every which way. The member is protected in that he can get back in if he wishes to withdraw and then use some specious wording to say he withdraws but he was right. Otherwise, the House can let him back in and save his pride by not having him withdraw. How much further can you go in protecting him and his constituents?

Mr. Rotenberg: The only way the House can let him back in is to say, in effect, the next morning, "The member shall be suspended--"

Mr. Chairman: No, sorry. Forget about what we have in front of us. Cut through the meat of it to the more simplistic point or the scenario that the member is gone indefinitely unless one of two things happen: he either withdraws or a motion is put to bring him back in.

Mr. Rotenberg: The way we have it written now, no motion is allowed to bring him back in. There is just a motion for suspension.

Mr. Chairman: Yes. I am asking what is the difficulty with that. What is the specific difficulty?

Mr. Breaugh: I do not have a problem if it is interpreted in this way. Let us say the Speaker is saying it is not just a case of unparliamentary language, but that it is a serious breach, serious enough that he wants the matter dealt with by means of a motion of the House. That is okay by me.

If we are talking about which words somebody used and whether they are unparliamentary, I do not want to see games start up around that. What we have now is sufficient to deal with it. We are not going to extrapolate it into a large item.

However, I want some deliberation here about the situation when the Speaker believes a serious breach has occurred. By that, I do not mean the use of one word. I mean, for example, when somebody makes a deliberate allegation of corruption. That would be considered to be a matter the House must deal with. I think we could probably handle it that way.

Mr. Chairman: You did not really answer my question as to what you find wrong. You do find it wrong. You do not want to go along with giving the fellow those two options.

Mr. Breaugh: In certain circumstances, I do not have any real problem with that. In others, I do. If we are talking about the parliamentary niceties here, or the words somebody used, that would be a wrong way to proceed. However, if we are talking about a serious breach, an allegation of some substance that somebody

did something very wrong, then that is an okay way to proceed.

11:10 a.m.

Mr. Chairman: The bottom line of what you are saying is you want to take the phrase, "You are a liar," and treat that as a minor offence and not a major offence.

Mr. Breaugh: Yes. The problem I have with withdrawing the words, "You are a liar," is that we are not making a distinction between someone using the wrong word in the heat of an argument and someone making a deliberate, thoughtful allegation of wrongdoing. In that instance, I believe the option should be there for the Speaker to say: "That is not just using wrong words. That is doing something in a thoughtful and deliberate way. That is saying another member was dishonest."

Mr. Rotenberg: If you use a word in the heat of debate, you are called to order and you say, "I am sorry, Mr. Speaker, I withdraw that remark," that ends it. There is no penalty at all.

However, if a person stands up, not in the heat of debate, and says, "The honourable member is a liar," that is a deliberate charge. When he is called to order and the Speaker says, "Would the member like to reconsider his phrasing?" and the member says, "No, the member is a liar," to me that is a major offence. It is imputing motives and it is not in the heat of debate. It is a deliberate charge against a fellow member. It has to be a major penalty.

Mr. Chairman: You are differing. You are saying that calling somebody a liar is a major or serious offence and not a minor offence.

Mr. Rotenberg: Deliberately calling somebody a liar--

Mr. Chairman: Well, now--

Mr. Rotenberg: Just a minute, let me finish. If it is not deliberate and you withdraw right away, there is no offence. This is the rule of the House. If you say something in debate and the Speaker calls you to order and you say, "I am sorry, Mr. Speaker, I withdraw that remark," it is over.

In effect, it is persisting to allow that word or that charge to stand on the record.

Mr. Chairman: When a person is called a liar, you are trying to put the Speaker in the position of deciding whether it was a word that slipped out or whether it was deliberate.

Mr. Rotenberg: No. If the Speaker calls a member to order and the member says, "Mr. Speaker, I withdraw the remark," whatever the remark was, once it is withdrawn it is over. We all agree on that. The Speaker does not have to judge whether a member said it deliberately or it slipped out. We give every member the benefit of the doubt that he did not say it deliberately and it did slip out.

If it has been called to a member's attention and he persists, it is obviously deliberate; therefore, it is a major offence. When he says it the first time, we give him the benefit of the doubt. If he withdraws, we assume it was not deliberate.

Therefore, I have to disagree with Mr. Breough. Where a person says it and it becomes deliberate in that sense, it is a major offence. It has to be dealt with under the clause. You cannot persist in calling a person a liar or whatever.

Mr. Chairman: Where are we? Are we at the point of turning it back to the Speaker and saying we have a hung jury and we cannot agree on any changes? Shall we leave it the way it is?

Mr. Rotenberg: Mr. Breough was pretty close to agreeing to what we have here.

Mr. Breough: No, I was not that close.

Mr. Rotenberg: If Mr. Breough insists that a person can stand up in the Legislature, call another member a liar, refuse to withdraw, and persist in saying, "Yes, the member is a liar," if that person is gone for the balance of the day and can come back the next day with impunity without any further action being taken, I have a basic disagreement with Mr. Breough.

Even under the present regulations, a motion can be put the next day for a serious offence but it is only for two weeks. In effect, what we are doing is changing the rules and saying a motion has to be put. It does not have to be put the next day, as Mr. Edighoffer said. It can be for longer than two weeks, but it is the same principle as in the present rules.

Mr. Chairman: Are you saying, or is the committee as a whole saying we leave it exactly the way it is except we change "two weeks" to "the balance of the session"?

Mr. Watson: It is not worth tampering with if you are not going to insist on a withdrawal.

Mr. Rotenberg: That is up to the House. The way it is written here it is up to the House. In effect, the House can say he is out for a month and after that time he can come back without withdrawing. That is the effect of the motion we have before us. It is up to the House, not the Speaker.

Mr. Watson: No, Mr. Rotenberg, you are off track. The chairman is saying that is all we are going to change. If all we are going to change is "two weeks" to "the balance of the session," from the present rules to that, then it is not worth changing.

The issue here is whether a person can come back into the House without withdrawing a remark that has been judged by the Speaker to be improper, unparliamentary or whatever.

Mr. Chairman: We are right back at the beginning.

Mr. Watson: If we are not going to deal with that in some way, then whether it is two weeks or the balance of the session becomes a fringe thing that does not make any difference.

Mr. Rotenberg: I tend to disagree with you on it. If you can get somebody out for three, four or five months, it is a very serious penalty.

Mr. Watson: A person who is going to take that kind of a stand is not going to be concerned whether he is out for two weeks, two months or two years. If that is the issue--

Mr. Rotenberg: Yet Mr. Ziemba did finally withdraw and came back, as I said.

Mr. Chairman: I have to disagree with Mr. Watson on that. I do think that if we leave it as it is, except to stiffen it up from two weeks to the end of the session, it does put some more teeth in it. It is at least a step in the right direction that the committee seemed to believe in last week.

Mr. Rotenberg: I would like to proceed with what we have on the printed page, with two changes: one, the change that Mr. Edighoffer mentioned, that the motion does not have to be put the next day; two, which I am not sure how to word, some provision that when a motion is put, it must be dealt with by the sitting day following the notice of that motion.

In other words, let us say that an honourable member somewhere is out. He does not withdraw, and perhaps members of his own caucus wish to put a motion that his suspension shall conclude today, or something like that. The majority party should not have the right to let that motion sit and sit and sit and never be dealt with, without debate and without amendment. I think that motion has to be dealt with within a day of when it is put and would be a motion that there simply be a vote.

Clerk, is there some way we can do that? How do you feel about that?

Clerk of the Committee: The only problem--and Mr. Decker has mentioned it--is, what happens if there is a motion that any member can put, whether it be to suspend a member or to permit a member to come back in, and the motion to let the member back in is defeated?

It could be a majority situation where the government says, "We are not going to let this person back in." It could be a minority situation where the opposition says, "We are not going to let this person back in."

At least in this provision, there are some whom you are saying will be kept out for a specific period, and that period ends subject to such terms and conditions as are agreed to.

Mr. Rotenberg: That is fine. The way you have it written now, the motion has to be put the next day. Mr. Edighoffer says that the motion should be put some days later. What you are saying, in effect, is that it is mandatory to put the motion. I agree with that, but there is nothing here that says the motion is mandatory. Once the motion is put, it has to be voted upon. It does not say who puts the motion, though.

Clerk of the Committee: That is right.

Mr. Rotenberg: Look at the scenario. There is a member of an opposition party who is put out by the Speaker. The next day an opposition member gets his motion in first, which says that the suspension shall be for one more day. That is the motion--how long the suspension should be.

That motion, as put, could possibly be defeated because the government feels the member should be out for longer; the majority in the House feels he should be out for longer. Once that motion is put and has been defeated, what happens? That is the first motion that got on the order paper.

Clerk of the Committee: The member is still in limbo.

Mr. Edighoffer: Till he apologizes or withdraws.

Mr. Rotenberg: Is there a provision for a further motion to be put? What is more, can a further motion be put? If a motion is defeated, can a further motion be put at some subsequent date?

Clerk of the Committee: You would have to be able to deal with a similar motion. How else are you going to deal with this situation?

Mr. Rotenberg: The way you have this written does not preclude a second, third or fourth motion to be put if the first has been defeated.

Clerk of the Committee: No.

Mr. Breaugh: I am not so sure.

Mr. Rotenberg: Perhaps the only other thing which I think should be added--I do not know--is that a motion shall--

Mr. Chairman: I agree with the clerk. On motion does not say that only one motion can be put. You can put a dozen.

Mr. Breaugh: I am not too sure. I think there is something in the standing orders that says you cannot put motions until the subject matter has been dealt with. You cannot put a separate motion.

Mr. Chairman: Yes, but the motion will be different. As Mr. Rotenberg said, if there is a motion brought two or three days later--

Mr. Breaugh: But I think the ruling would probably be, "We have dealt with that matter."

Mr. Chairman: No. The wording in that motion would be that he be let back in, and--

Mr. Breaugh: It does not matter that the wording is different. If the subject matter is the same, you cannot put the motion.

Mr. Chairman: But the subject matter is not the same. If one says, "Let him in on December 10," and the other says, "Let him in on January 10," that certainly is not the same subject matter.

Mr. Breaugh: We have never been able successfully to put motions like that. We consistently get rulings against us.

11:20 a.m.

Mr. Rotenberg: The second part of that is, if for some reason the government House leader chooses not to put a motion--he moves what gets dealt with--under motions, can his opposition member get up and move one and does it have to be dealt with?

Clerk of the Committee: No, because motions under the standing orders are only for routine purposes of--

Mr. Rotenberg: For the protection of the members and the minority of the House, how do you provide for the fact that if the government House leader does not want to put this motion, an opposition member might? How does he get it dealt with?

Mr. Chairman: Deem it to be one of the motions that is dealt with under the motion section.

Clerk of the Committee: It is dealt with automatically. In this case, it does not say who is to make the motion.

Mr. Rotenberg: At what stage--

Clerk of the Committee: Normally, the Speaker would look to the government House leader or the minister leading the government to put the motion. Then, as in other instances, the Speaker would look to another member. In other jurisdictions the Speakers look to the leaders of the opposition.

Mr. Rotenberg: What I am saying is because the government controls the business of the House, if on the subsequent day the government House leader for some reason does not put any motion about the suspended member, if a member of the opposition stands up and moves a motion, then it is in order, even if it is not in Orders and Notices, and has to be dealt with.

I would like to establish that would be the ruling, when the Leader of the Opposition stands up and makes that motion.

Mr. Breaugh: That is my problem.

Mr. Rotenberg: The point is, can he move that? In the standing orders, how does he make the motion?

Mr. Chairman: We could put in that a motion in this section shall be deemed to be one which will fall under standing order 25, routine proceedings.

Mr. Rotenberg: Or shall be deemed in order at any time, or something like that.

Mr. Chairman: That is right, or make a place for it.

Clerk of the Committee: There is one, though. If you take a look at our current standing order 20, at the time the Speaker determines it is a serious offence, at that point he looks for a motion to be put immediately. He looks to the House leader, or the minister leading the government, in the first instance.

Mr. Chairman: However, I think the point--

Clerk of the Committee: If it is not forthcoming from that side of the House, he looks to the other side.

Mr. Rotenberg: The way you have written this now, he deems it to be a major penalty on Thursday night, but it is Friday morning or Monday morning before you put the motion.

Mr. Chairman: I think what Mr. Rotenberg is trying to say is you are considering when the motion is dealt with. Under the present standing orders, it is immediately. What Mr. Rotenberg is dealing with is, when does the motion get put and where is the provision for it on a subsequent day--two, three, five days down the way?

I suggest you simply deem it one of the motions that is applicable under standing order 25; then it comes in routine proceedings. There is already a place for motions, so we just say, "Fine, this is appropriate under the word 'motions' and routine proceedings." And that is the point for it.

Mr. Rotenberg: Also, it can be placed by any member.

Mr. Chairman: I do not think you need to say that because you have already said "a motion."

Mr. Breaugh: No. I really think you must be explicit if this is the route you are going to go, that anyone can put it. I do not want to get into an argument at some subsequent date when the Speaker refuses to recognize me under motions.

Mr. Chairman: Okay, "a motion which may be put by any member."

Mr. Rotenberg: I am not sure whether it should come under motions or a point of privilege or order section.

Mr. Chairman: I am suggesting we already have a spot for motions. Every day there is a question period, there is also a spot for motions with petitions, so why not poke it in there? A place is already provided. Why not just say, notwithstanding any other rule, this is an appropriate place.

Mr. Rotenberg: I think you are right, but I think we must have the clerk in effect say, "We will write the rule on that basis."

Mr. Edighoffer: It would almost have to be considered a substantive motion, would it not?

Clerk of the Committee: If you are going to put anything in, it should come after routine proceedings and before the orders of the day, as we do at an emergency debate.

Mr. Rotenberg: I think it would be deemed a substantive motion, but we must have in our rules that if that substantive motion is put, it must be dealt with the first day it appears in the order paper. This is really for the protection of minorities. It must be dealt with.

Mr. Watson: I think if we leave this in, it has to be dealt with immediately anyway, without debate and so on.

Mr. Rotenberg: The problem is, if the government House leader does not make the motion, will the Speaker recognize an opposition member to put it? We have to make sure of that obligation. The way our standing orders are now, it may not be so.

Mr. Watson: I have enough faith in the people in this place that this kind of thing is not going to happen. We will have a lot of negotiation and discussion before it is done. I cannot think that anything we could imagine would happen that would bring on this kind of a motion.

The Speaker is not going to put somebody out and then look at the government House leader—and say, "Come on up with the motion." It is just not going to happen that way. Perhaps we can get that "the" to an "a" on a following day. It may be a week before the parties half agree on what direction we are going to go.

Mr. Chairman: I would like to point out one thing that might happen if you put it under substantive motions, and I do not have any particular objection to that except there are various conditions on substantive motions. There is the one Mr. Breaugh was afraid of, number 39, "No motion or amendment, the subject matter of which has been decided upon, can be again proposed during the same session."

If you put it in under substantive motions, you take advantage of all the conditions and provisions of other substantive motions. This is a unique situation and why I thought if you put it under the ordinary motions of the day, it would be better.

Mr. Rotenberg: I think it has got to be put somewhere. There is no point in having the clerk go through all this exercise and then come back next week and still not get agreement. We can agree on the principle where we are at, on the motion, the way we have it written now, that at some substantive date a motion can be put. Why do we write the orders? The motion can be put by any member and when the motion is put, it must be dealt with and if a motion is not passed, a different motion on the same subject matter can be put on a subsequent day.

If you have all those protections in there, and if Mr. Breugh agrees with it, then I think we can go with it, but I do not want to put the clerk through all these hoops and then have to come back next week and have Mr. Breugh say, "I do not like the whole thing."

The problem we have in this committee--it is a good and a bad problem--is that unless we can get everybody agreeing with it there is no point in sending it on. With all those protections, if Mr. Breugh can agree with the process, then I think the clerk can work it out.

Mr. Edighoffer: I think it will take a long time to figure out what we will do with the motion.

I will make a very brief motion, that we change the word in the third line of clause (c) before the word "following", from "the" to "a", and that we submit it to the Speaker and request that he come back with his comments on it.

We talked earlier about whether we really want to put the Speaker in the position of making that decision. I would kind of like to hear his views. So I will make that a motion.

Mr. Rotenberg: I have no objection to the motion, but we only have one more week of this thing. If the Speaker comes back and says that is fine, then what do we do?

Mr. Edighoffer: We would make a decision.

Mr. Chairman: If that is carried today, can we put that to the Speaker and request that he get back his reply prior to next Thursday morning?

Mr. Rotenberg: The second part of it, I think, would be to have the clerk, informally at least, be prepared to give us some advice on how we would deal with the problem of who puts the motion when and about the protection of the minority rights to put a motion.

Mr. Breugh: Why do we not simply stand this down, refer it to the Speaker, and vote on it next week with the amendment that you put?

Mr. Chairman: As Mr. Edighoffer's motion, submit it to him and then vote on it next week, getting his reply prior to next Thursday.

Mr. Rotenberg: Except, with respect, if somebody next week comes up with this problem of how to get the motion put, we should at least be prepared to deal with it. The clerk has heard the discussion, and I assume he will have some advice for us if we ask him for it.

Mr. Chairman: Is there any other discussion on Mr. Edighoffer's motion?

Motion agreed to.

VOTING PROCEDURES

Mr. Breaugh: There is one other matter before we adjourn. I think you should anticipate that there will be some discussion about how votes are put when they are stacked and the process of stacking, and something will evolved from what happened last Tuesday evening. I would put to you that, for a variety of reasons, to be polite about it, it was not our finest hour.

There were people who were calling votes that I am sure members on all sides could not hear, because I could not hear what vote was being put, so we may have to turn our minds to the process of stacking and of how the votes are called. There has to be a way better than our current practice for a Legislature of this size to proceed with the taking of votes. You are going to have to turn your minds to that matter.

11:30 a.m.

Mr. Chairman: Do you not think, with respect, that the problems of Tuesday night simply came from the House being too noisy?

Mr. Breaugh: No. That was part of it, but another difficulty is that it is ludicrous to think people coming in from all other committees know what the amendment to clause (b) of section 40 of any given act is; they do not. There has to be a clear way to identify how those sections are put so that members are at least aware of what is going on.

On this particular one, our critic was behind me and the whip was in front of me. Both of them had a printed page of what all of the votes were. As long as they could hear, we were on safe ground. On some occasions they could not hear and the votes were being called and tallied in the process.

I think we really need to devise a technique, maybe just to identify who put the amendments, because on several of the sections there were more than one amendments put by different parties, and it was not made clear what amendment was being voted on at any given moment.

I think that was a problem heightened by the noise in the House and all of that, but it was a very complicated bill. There were 15 amendments put in about a five-minute time span and it was just not a good way to proceed. It caused a lot of animosity on our side and a lot of confusion all over the place. I think there has to be a better way.

Clerk of the Committee: The chairman usually states, "We are dealing with an amendment to section 1 of the bill, moved by Mr. Ramsay," or something like that. In many cases the chairman will read the text and someone will yell, "Dispense," so he dispenses with reading the text of the amendment and then proceeds.

There is nothing to prevent the committee from requiring the chairman to read the text of the amendments; we have done that many times.

Mr. Breaugh: Yes, I suppose this is one alternative which you might consider, but I point out to you that on Tuesday evening there were unusual problems and the motions were not being put in quite that manner.

One difficult is that a combination of people have agreed to stack votes for a variety of reasons. The most common one is that it is pretty silly to stop all of the committees and run into the Legislature every time an amendment is put. It is much better from everyone's point of view to agree to stack those votes and hold them at 10:15 in the evening. However, it is rather important that the amendments be put very clearly so that everyone is aware of what amendment is before them at any given point in time.

On Tuesday evening that was not being done and the additional noise factor made it even more difficult. We are going to have to find a technique, and it may simply be what is already norm, which is they identify the section, the subsection and the mover of the amendment. That gives us three clues as to what is before us at any given time, and that should be adhered to feverishly. It was not on Tuesday evening.

Mr. Rotenberg: With respect, I think Mr. Breaugh has a point, but I think the point is really not for this committee because the rules of the House are very specific. When votes are stacked, the chairman should read Mr. So-and-So's amendment to section so-and-so, read the whole amendment, who moved it, what the clause is now, and then dispense is done with unanimous consent only.

For whatever reason, perhaps because the House was a little boisterous, some of those items, in the opinion of some members, were not identified properly. With respect, it might be either the duty of this committee or possibly of your caucus to write a little note to the Speaker indicating that some members had a little trouble following the putting of the stacked votes. Mr. Speaker should take note of it and possibly draw it to the attention of his deputies.

Let the Speaker handle it in the initial stage. I certainly think that if the rules themselves, as they are now in our standing orders, were observed, there would be no problem. If there is a decorum problem, the Speaker or the chairman can devise a way to handle it.

I do not think we need any change of rules or anything from this committee. I think we should draw it to the attention of the

Speaker in the initial stage and see what happens. If there is still a problem, we may take it further.

I suggest if you or your caucus, if you were the ones who felt aggrieved, and I can understand why, draw that to the attention of the Speaker, the matter will be corrected.

Mr. Breaugh: I am just serving notice.

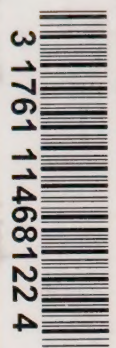
Mr. Rotenberg: I do not think it should come to this committee before the Speaker has had a chance to try to remedy the situation.

Mr. Breaugh: We will be sure he gets that chance.

Mr. Chairman: Is there anything else? We are adjourned until next Thursday morning at 10 o'clock.

The committee adjourned at 11:35 a.m.

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